

**LCB File No. R093-00**

**NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Adoption, Amendment &  
Repeal of Regulations of the Nevada Housing Division**

The Nevada Housing Division will hold a public hearing at 10:00 a.m. on August 29, 2000, at the Housing Division's offices located at the Evergreen Center, 1802 N. Carson Street, Suite 154, Carson City, Nevada 89701-1229 and at 1771 East Flamingo Road, Suite 206-B, Las Vegas, Nevada 89119. The offices will be connected by telephone. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to chapter 319 of the Nevada Administrative Code.

**The following information is provided pursuant to  
the requirements of NRS 233B.060:**

1. The need for and the purpose of the proposed regulation or amendment.

The proposed regulations are needed to establish guidelines and procedures for administering the multi-family loan program and the underwriting requirements of the Division.

2. A description of the subjects and issues involved.

The regulations describe procedures, requirements, and qualifications for project sponsors and owners pertaining to the financing of multi-family housing projects.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

The estimated economic effect of the regulations on businesses and on the public is \$0.00. The adverse effect of the regulation is that the procedures may change, which would require sponsors and lending institutions to review and implement the changes. The beneficial effect of the regulation will be improved application of the regulations. The immediate effect of

the regulation will be some changes in the current system, but the long-term effect will be more efficient operation by both the Division and the participants.

4. The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Housing Division for enforcement of the proposed regulation is \$0.00.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

None.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The regulations are not required pursuant to federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The regulations are no more stringent than federal regulations.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The regulations propose a new fee, to wit: the loan assumption fee includes a processing fee and a 1% of loan balance assumption fee. Additionally, an application fee of \$1,250.00, plus a \$75,000.00 down payment toward the cost of issuance is required. The financing fees typically run between 2% and 3% of the total bond amount.

Persons wishing to comment upon the proposed action of the Housing Division may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Housing Division, 1771 East Flamingo Road, Suite 206B, Las Vegas, Nevada 89119. Written submissions must be received by the Housing Division on or before 10:00 a.m., August 29, 2000. If no person who is directly affected by the proposed action

appears to request time to make an oral presentation, the Housing Division may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation(s) to be adopted, amended and repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted, amended and repealed will be available at the Housing Division offices located at 1802 North Carson Street, Suite 154, Carson City, Nevada 89701-1229 and 1771 East Flamingo Road, Suite 206B, Las Vegas, Nevada 89119. In all counties in which an office of the agency is not maintained, this notice will be available at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

## NEVADA COUNTY PUBLIC LIBRARIES

Attn: Barbara Mathews, Director  
Churchill County Library  
5553 S. Maine Street  
Fallon, NV 89406

Attn: Darryl Batson, Director  
Las Vegas - Clark County Library  
833 Las Vegas, Boulevard N.  
Las Vegas, NV 89101

Attn: Sara Jones, Director  
Elko County Library  
720 Court Street  
Elko, NV 89801

Esmeralda County:  
P.O. Box 430  
(Fourth & Crook Street)

Attn: Lauri Oki, Director  
Eureka Branch Library  
P.O. Box 293  
Eureka, NV 89316

Attn: Sherry Allen, Director  
Humboldt County Library  
85 East 5th Street  
Winnemucca, NV 89445

Lincoln County Library  
93 Main Street  
P.O. Box 330  
Pioche, NV 89043

Attn: Christian Freer-Parsons, Director  
Lyon County Library  
20 Nevin Way  
Yerington, NV 89447

Attn: Steve Schlatter, Director  
Mineral County Library  
P.O. Box 1390  
Hawthorne, NV 89415  
(First & A Street)

Goldfield Public Library  
P.O. Box 430  
Goldfield, NV 89013

Attn: Diane Hartssock, Director  
Tonopah Public Library  
P.O. Box 449  
Tonopah, NV 89049  
(171 Central Street)

Attn: Jeanne Munk, Director  
Pershing County Library  
P.O. Box 781  
Lovelock, NV 89419  
(1125 Central Avenue)

Storey County Library  
P.O. Box 14  
Virginia City, NV 89440  
(95 South R Street)

Attn: Nancy Cummings, Director  
Washoe County Library  
P.O. Box 2151  
Reno, NV 89505  
(301 South Center)

Attn: Lori Romero, Director  
White Pine County Library  
950 Campton Street  
Ely, NV 89301

Attn: Lynn Chambliss, Director  
Battle Mountain Branch Library (Lander County)  
P.O. Box 141  
Battle Mountain, NV 89820

Attn: Sally Edwards, Director  
Carson City Library  
900 N. Roop Street  
Carson City, NV 89701

Attn: Carolyn Rawles-Heiser, Director  
Douglas County Library  
P.O. Box 337  
Minden, NV 89423

**PROPOSED REGULATION OF THE HOUSING DIVISION OF THE  
DEPARTMENT OF BUSIENSS AND INDUSTRY**

**LOANS FOR MULTIPLE-UNIT HOUSING  
AND SITES FOR MOBILE HOMES**

AUTHORITY: NRS 319.140(1)

**NAC 319.650 is hereby amended to read as follows:**

**"Originating and servicing correspondent" defined.** "Originating and servicing correspondent" means a lending institution which:

1. Originates and services insured mortgage loans;
2. Has a net worth of at least ~~\$500,000~~ **10,000,000**;
- ~~3. Maintains at least one office within the state;~~
- ~~4. Is qualified to do business in the state;~~
5. Is licensed as required by law and is authorized to commence business by certificate of the superintendent of banks or the commissioner of savings associations, if required by law;
6. Is in good standing with **appropriate** all state, local and federal regulatory agencies and bodies; and
7. Is approved by the division, and **Federal National Mortgage Association, or** the Federal Housing Administration as experienced and qualified to originate and service loans for projects.

**NAC 319.660 is hereby amended to read as follows:**

**"Program" defined.** "Program" means the division's program ~~of loans for~~ **for the financing of multifamily housing** projects.

**NAC 319.670 is hereby amended to read as follows:**

**"Project" defined.** "Project" means a housing facility for residential use, consisting of two or more dwelling units for occupancy by eligible tenants on a rental basis. The term includes real property to be leased, *purchased or developed* for sites for *multifamily housing, upon which the division takes a security interest and files a regulatory agreement,* mobile homes, whether or not the division *issues bonds, a mortgage loan, or a letter of credit* finances the *for the lease, purchase, or development* of *such multifamily dwelling* the mobile homes.

**NAC 319.690 is hereby amended to read as follows:**

**Loans for projects.**

1. If appropriate, the division will ~~make~~:

(a) ~~A loan~~ *Issue bonds, a mortgage loan, or a letter of credit* for the interim financing of the development, construction or rehabilitation of a project;

(b) ~~A loan~~ *Issue bonds, a mortgage loan, or a letter of credit* for the permanent financing of a project; or

(c) ~~A loan~~ *Issue bonds, a mortgage loan, or a letter of credit* for both interim and permanent financing of a project.

2. Such a *mortgage* loan *or bond issuance* must be:

(a) Fully or partially insured or guaranteed *with a credit facility from* by a governmental agency, *other than the division,* or by a private source of mortgage *insurance, bond* insurance, *or guarantee* which is licensed to do business in this state; and

(b) Secured by a deed of trust on a project in this state.

3. As a condition precedent to the initial closing of such a *mortgage* loan *or bond issuance*, the sponsor must execute any documents which the administrator deems necessary or appropriate

to regulate the acquisition, development, construction or rehabilitation of the proposed project and the operations of the sponsor, in order to protect the interest of the division and to fulfill the division's duties.

4. Such a *A mortgage* loan may only be assigned, *transferred, conveyed, or pledged* or sold by a sponsor *or direct lending institution* subject to terms and conditions which are approved in writing by the division before the assignment, *transfer, conveyance, or pledge* or sale. Upon the execution of an agreement for the assumption of the *mortgage* loan, the sponsor shall pay to the division a fee of *up to* 1 percent of the unpaid principal balance of the *mortgage* loan.

5. The obligation of the division to finance a project is subject to the issuance *of a division letter of credit or* and sale of bonds or other obligations of the division in an amount sufficient to permit financing, ~~unless the project is financed with money from the general reserve trust.~~

~~6. An originating and servicing correspondent or, if a project is approved without a correspondent, the sponsor shall execute an agreement for such a loan or an agreement for a commitment of purchase obligating him to deliver loans for projects. The agreement for a commitment of purchase must provide that loans for projects will be delivered to the division following the final endorsement of the loan made by the division, but not later than 30 months after the delivery of the series of bonds issued for the financing.~~

7. Upon the issuance of a letter of conditional commitment and inducement and the acceptance by the sponsor of the terms and conditions of the letter, the sponsor shall submit to the division within 45 *10* days after the letter is issued, a fee in *the amount of the division's cost of issuing bonds, a mortgage loan, or a letter of credit* ~~an amount equal to 3 percent of the amount of the~~

mortgage loan or an amount *and* in accordance with the Internal Revenue Code of 1986, as amended.

8. If the sponsor notifies the division in writing that it does not wish to proceed with the financing, the division shall retain a portion of the fee to cover the costs incurred. The division will return the remainder of the fee to the sponsor *within 10 days from the date the division makes a final determination with respect to total costs incurred.*

~~9. If the initial closing of an insured mortgage loan has not occurred within 9 months after the execution of the agreement for a commitment of purchase and a substitute project which is acceptable to the division has not been offered, the division may terminate its commitment to purchase the loan.~~

~~10. When a project is required to have an originating and servicing correspondent, the correspondent must execute a servicing agreement with the division.~~

**NAC 319.700 is hereby amended to read as follows:**

**Applications for *Mortgage loan, bond issuance, or letter of credit.***

1. The division will publish *application requirements* and periodically update a "Developer's Handbook" which must describe in detail:

~~(a) The procedure for reviewing an application and any other requirements prescribed by the division.; and~~

~~(b) The applicants who need not submit the \$500 fee with the preliminary application.~~

2. The enclosures, which must be furnished with the preliminary application, include:

(a) A general map of the location.

(b) A plot plan of the site including dimensions and unusual contours or surface features.

(c) The legal description of the property and a preliminary report of status of title.



(d) A copy of the deed, contract of sale or option by which the sponsor holds the site.

(e) The Federal Housing Administration's application 2013.

3. A complete proposal must be submitted if the division accepts the preliminary application.

4. The division will specify in any commitment approving a loan:

(a) The date of expiration of the commitment;

(b) The principal amount of the loan;

(c) The maximum rent by dwelling unit which may be charged by sponsor;

(d) The requirements concerning occupancy of the project; and

(e) The requirements concerning fees.

5. All costs must be computed by certified public accountants acceptable to the division. All appraisals must be made by a member of an appraiser's organization which is acceptable to the division. All financial information required by NAC 319.600 to 319.790, inclusive, must be supplied or disclosed in the form of an audited financial statement unless another form of financial statement is specified by the division.

**NAC 319.710 is hereby amended to read as follows:**

**Selection of projects.** The division will finance those projects which:

***1. Receive local government endorsement and a transfer of an amount of private activity bond cap deemed necessary by the division;***

**2. Are financially feasible at the interest rate to be charged under the division's program and the rents which have been agreed upon but not at the prevailing rate of interest with such rents;**

**3. Will be rented at or below the rents charged for comparable housing which is affordable by tenants of low or moderate income;**

4. Meet the needs identified by the division *and local government* for increasing the supply or improving the quality of decent, safe and sanitary housing for eligible tenants; *and*

5. *Meet the division's underwriting criteria as published and updated from time to time.*

**NAC 319.720 is hereby repealed.**

~~The division will assign its allocation from the program for rent assistance of the Department of Housing and Urban Development within geographic areas of the state to those projects having lower levels of rent for comparable units.~~

~~2. When a project is financed in whole or in part by a loan which is secured by a mortgage insured or guaranteed by a governmental agency or is otherwise assisted by a governmental agency, the loan is subject to the regulations of the governmental agency, and any contrary provision of NAC 319.600 to 319.790, inclusive, does not apply.~~

**NAC 319.770 is hereby amended to read as follows:**

**Examination of books and records.** All the sponsor's *real and personal property pertaining to the project, including all* books, accounts and records pertaining *thereto*, ~~to the project~~ must be available for inspection by representatives of the division during the regular business hours. The division may conduct such ~~examinations of the books and records~~ *inspection*, as it deems necessary or appropriate to determine compliance with *division requirements and local, state, and federal law.* ~~chapter 319 of NRS and NAC 319.600 to 319.790, inclusive, and may require each~~ *The* sponsor *shall be required* to pay the *division's* cost of *such inspection* ~~any examination.~~

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Policy and priority for private activity bond cap. The division will give priority to senior and specialty need populations when allocating multifamily housing private activity*

*bond cap. Priority for multifamily projects proposed by local governments will be established by the local governments. In the absence of local governmental prioritization, the division's private activity bond cap allocation will go first to senior and specialty population projects, then to family-oriented projects. If adequate matching private activity bond cap is not available from the division for all multifamily projects submitted by local governments, first priority goes to senior projects. Family projects will be postponed until sufficient matching private activity bond cap is available. If sufficient matching private activity bond cap is available from the division, senior projects do not need a taxable bond component. Family-oriented projects must have a 15% or greater taxable component. Mixed-use projects with a percentage of specialty population or senior usage will have the 15% taxable component reduced by the ratio of specialty or senior units to total units.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Board of Finance Approval. All multifamily projects must obtain Board of Finance approval. All multifamily projects submitted to the Board must have both binding commitments from an approved credit enhancer, on either the mortgage or bonds, as required, and from the tax-credit equity investor, prior to submitting the underwriting package to the Board.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Bond Amount. The division may issue a combination of up to fifteen percent (15%) taxable and tax exempt bonds with the required credit enhancement. The proceeds must be utilized to construct and/or permanently finance projects in the State for up to \$30,000,000 in debt. Loan amounts may be for \$5,000,000 to \$30,000,000 with smaller amounts permitted on a case by case basis.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Credit Enhancement. The minimum long term rating of a credit enhancer must be AA/Aa, including floating rate transactions. The form of credit enhancement may be bond or FHA insurance, mortgaged-backed security (MBS), credit facility, or a letter of credit. Credit enhancement must cover the full amount of the bonds issued for the life of the bonds. A mandatory put is required in the event of non-renewal.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Amortization. Both fixed and floating loans must be fully amortizing with a thirty (30) year length maximum. FHA insured exceptions are permitted.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Local Government Authority. All projects must have local governmental approval. The local government must provide a minimum of 50% of total bonding authority. Rural community projects with less than 50% private activity bond cap available per year will be reviewed by the division on a case by case basis.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Prepayment. Prepayment shall be governed by the bond documents. Yield maintenance on issuer and trustee fees shall be in place for the first 10 years.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Non-recourse. All loans must be non-recourse, except for standard lender and issuer exceptions.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Property Ownership. All property and projects must be owned by single asset or single purpose entity. Cross-collateralization involving properties not a part of the original financing is not allowed.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Debt Service. Debt Service coverage must be a minimum ratio of 115:100 on new construction and 125:100 on acquisition and rehabilitation projects.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Loan to Value. The loan to value percentage must be 85% maximum. For projects with 4% tax credits, 90% loan to value is allowed if it is justified by the market.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Subordinate Financing. Subordinate financing is allowed up to 98% of the appraised value, but must be serviced by no more than 75% of available cash flow.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Permanent Loan Financing. The project must be 90% occupied for 90 consecutive days prior to permanent loan financing taking effect.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Loan Assumption. Loans are assumable but subject to division approval with payment of a processing fee and a one percent (1%) of loan balance assumption fee.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Required Reserves. Tax, insurance, repair, and replacement escrows are required reserves.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Fees and Costs. The application fee is \$1,250. A \$75,000 down payment toward costs of issuance is required upon approval of the loan application. The balance of the cost of issuance of the bonds is due at closing.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Financing fees. Financing fees are 2-3% of the total bond amount. A maximum of 2% is payable from tax-exempt bond proceeds.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Cost of Land. A copy of the land sale contract is required documentation. High percentage markups of land costs, without documented value added improvements will be carefully scrutinized and may be disallowed. Related party sales receive careful review.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Profits and Overhead. Developer profit and overhead is limited to 15%. No more than 10% of total taken on a percentage of completion of improvements. An additional 10% is allowed at permanent loan conversion; balance allowed from cash flows after senior debt service and funded reserves; interest rate on deferred note limited to amount needed to maintain present value on unpaid developer fee. The contractor profit and overhead is limited to 14% on improvements taken on a percentage of completion basis.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Regulatory Agreement. Each project is subject to the division's regulatory agreement.*

**Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:**

*Placement of signs. All bond & four percent (4%) tax credit projects must permit the division to display a sign during construction which states in effect that the project is sponsored by the division.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

*Underwriting documents.*

*Underwriting documents required by the division:*

- 1. Binding letter of commitment from AA/Aa or AAA/Aaa rated credit enhancer covering the amount and life of the proposed bond issue.*
- 2. Binding letter of commitment from the tax credit syndicator verifying the amount and timing of funds from the sale of tax credits, less all associated fees.*
- 3. Proposed final sources and uses of funds, including cash from tax credit syndication, grants, or any subordinated debt and the proposed draw schedule bond proceeds use.*
- 4. Partnership Agreement or Articles of Incorporation for the sponsoring organization.*
- 5. Certificate of Registration from the Nevada Secretary of State pursuant to NRS 88.580 or 86.551 as appropriate, for the sponsor's corporation or partnership.*
- 6. Articles of Organization and any resolutions or operating agreements which establish the signing authority for any persons signing legal documents associated with the financing of the proposed project.*
- 7. Contract of Purchase for the land upon which the proposed project is to be built.*
- 8. Title report on the project site, a list of all exceptions and a pro forma ALTA policy to be issued to the lending organization.*
- 9. Copy of a Phase I Environmental Report for the proposed project that is less than 12 months old.*
- 10. Copy of the most recent geotechnical report, which is less than 12 months old.*
- 11. Copy of certified appraisal, approved by the credit enhancement entity.*

- 12. A copy of a certified "As-built" survey of the subject property, ALTA qualified, showing the project properly placed on the subject site and all title exceptions plotted.*
- 13. Copy of any development agreement with the owner of the proposed project.*
- 14. Copy of any management agreement to be utilized for the proposed project.*
- 15. Copy of any general contractor's agreement between the development organization and the proposed general contractor for the project.*
- 16. Parcel Map, recorded form only.*
- 17. If property is located on a FEMA flood zone, a copy of the zone with the property sited on it.*
- 18. Copy of zoning which allows for the development of the project on the proposed site.*