

PROPOSED REGULATION OF THE STATE TREASURER

LCB File No. R088-01

August 16, 2001

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

AUTHORITY: §§1-24, NRS 361.920.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 24, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 24, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Certificate” means a certificate of allodial title issued by the state treasurer, which is evidence that the titleholder has qualified for allodial title.*

Sec. 4. *“Installment agreement” means a contract:*

- 1. Pursuant to which a titleholder establishes allodial title by installment payments; and*
- 2. Which consists of the provisions of an application for allodial title and an agreement and schedule for installment payments provided by the state treasurer.*

Sec. 5. *“Owns” means that title is held by a natural person as his sole property, or by more than one natural person as joint tenants or tenants in common.*

Sec. 6. *“Program” means the program for allodial title established pursuant to NRS 361.900 to 361.920, inclusive, and sections 2 to 24, inclusive, of this regulation.*

Sec. 7. *“Property tax” means the combined ad valorem taxes levied by all governmental entities on a single-family dwelling, its appurtenances and the land on which it is located. The*

term does not include the tax levied upon the net proceeds of minerals, which is determined pursuant to NRS 362.140.

Sec. 8. *“Single-family dwelling” means a single-family residence which is used as the primary living quarters of a titleholder and which is not used for a commercial purpose.*

Sec. 9. *“Titleholder” means a natural person who holds title to, owns and occupies a single-family dwelling, its appurtenances and the land on which it is located free and clear of all encumbrances, except any unpaid assessment for a public improvement. The term does not include a corporation or other business entity, or a trust.*

Sec. 10. 1. *The program for allodial title allows qualified titleholders to pay their property taxes for a period equal to the life expectancy of the youngest titleholder of the property on which a single-family dwelling is located. A titleholder:*

(a) Must occupy the single-family dwelling as his primary residence for at least 300 days each year; and

(b) Is ineligible to hold allodial title on more than one single-family dwelling at the same time.

2. *The program will provide for the payment of property taxes for holders of certificates of allodial title. The state treasurer, on behalf of the titleholders of a specific parcel of property, will make payment of future property taxes for that property once the titleholders have been issued a certificate and so long as the titleholders are qualified for allodial title.*

3. *The program will not provide for the payment of any special assessment, service charge or fee that is included on a property tax bill.*

4. The program applies and is restricted to the surface rights of residential property, and does not include the mineral rights of property. The program is intended to protect families from losing family homes, not mining businesses, because of tax liens.

5. The state treasurer will avoid, to the extent possible, the unequal collection of property taxes by properly determining the cost of a certificate.

Sec. 11. 1. *The state treasurer will determine the cost of a certificate in accordance with the provisions of NRS 361.900.*

2. An actuarial calculation will be used to project the life expectancy of the titleholders of the property, the income that will be earned on the money in the allodial title trust fund, and changes in the assessed valuation of the property, including, without limitation, the results of inflation and changes in value resulting from the destruction of improvements, the construction, remodeling or rebuilding of improvements, obsolescence or contamination.

3. If the titleholder has made any property tax payments that cover a period after the effective date of the certificate, the titleholder will be provided credit for those property tax payments against the cost of the certificate.

Sec. 12. *The cost of the certificate may be paid by the titleholder:*

1. In one lump sum; or

2. In annual installments over a period of 10 years.

Sec. 13. *If a titleholder chooses to pay in a lump sum:*

1. He shall remit payment within 90 days after the state treasurer provides notice of the amount of the lump sum. If the lump sum is not received by the state treasurer within that period, the state treasurer will recalculate the cost of the certificate.

2. He will have the option of signing an agreement that the lump-sum cost may be recalculated if improvements are made which increase the value of the property at least 10 percent over the value of the property at the time the lump-sum cost was determined. If the titleholder signs such an agreement, the state treasurer will reduce the lump-sum cost.

Sec. 14. *If a titleholder chooses to pay in annual installments:*

1. He must enter into an installment agreement with the State of Nevada.

2. The installment agreement must contain a provision that the state treasurer will adjust the final installment payment to reflect any increase or decrease in the assessed valuation of the property since the date of the application in accordance with subsection 8 of NRS 361.900.

3. The state treasurer may:

(a) Calculate varying annual installments so that the final installment payment will not be extraordinarily high.

(b) Estimate a projected rate of change in the assessed valuation of the property so that each annual installment will include a portion of the change and the final installment will not include the entire amount of the change.

4. During the period of the installment agreement, the titleholder remains liable for payment of his property taxes until the final payment pursuant to the installment agreement has been paid and the titleholder has been issued a certificate.

5. The titleholder may prepay the annual installments without penalty.

Sec. 15. *1. If a titleholder chooses to pay in annual installments, the titleholder shall remit payments pursuant to the installment agreement on the dates and in the amounts set forth in the schedule for participation and payment provided to the titleholder by the state treasurer.*

2. If a titleholder fails to remit a payment required by the installment agreement within 30 days after the due date, the titleholder shall be deemed to be in default of the installment agreement.

3. If a titleholder is deemed to be in default, the state treasurer will so notify the titleholder and:

(a) Prepare a refund in the manner and subject to the provisions set forth in NRS 361.900 for a refund upon the rescission of an installment agreement; and

(b) Remit the refund to the titleholder within 90 days.

4. A titleholder who is deemed to be in default may reapply for allodial title in the future in accordance with NRS 361.900 and sections 2 to 24, inclusive, of this regulation.

Sec. 16. 1. *A titleholder of property for which a certificate has been issued shall notify the state treasurer within 60 days after:*

(a) The titleholder sells or transfers the property;

(b) The titleholder rents or leases the property;

(c) The titleholder converts the residence, appurtenances or land to use by or as a commercial business;

(d) The titleholder moves, or fails to live in the residence for at least 300 days each year;

(e) The titleholder encumbers or applies for a mortgage or loan, using the property as collateral;

(f) A titleholder is added to or deleted from the deed for the property; or

(g) A titleholder of the property dies.

2. Upon receipt of notification pursuant to subsection 1, the state treasurer will conduct a review to determine if the titleholder qualifies to continue the allodial title on the property and, if so, whether a recalculation of the cost of the certificate is necessary.

Sec. 17. Upon the addition or deletion of an allodial titleholder that involves a transfer of interest to a person other than a joint tenant, the state treasurer will recalculate the cost of the certificate using revised actuarial assumptions reflecting the transfer. The actuarial calculation will be performed in the same manner as the original actuarial calculation, using the new data supplied by the titleholder and county assessor.

Sec. 18. 1. If the titleholder relinquishes the certificate, or the state treasurer determines the titleholder no longer qualifies, the state treasurer will prepare a refund in accordance with NRS 361.915.

2. A refund must be requested in writing from the state treasurer, who will process the request within 90 days after receiving the request.

Sec. 19. 1. The certificate may be transferred to the heir of an allodial titleholder in accordance with NRS 361.910.

2. The state treasurer will review the information set forth in the application and determine if any additional information is needed to process the transfer of the allodial title to the heir.

Sec. 20. 1. The addition or deletion of an allodial titleholder may require a recalculation by the state treasurer of the cost of the certificate to reflect the actuarial assumptions of the life expectancy of the allodial titleholders and the value of the specific property.

2. *Upon receipt of an application to add or delete an allodial titleholder, the county treasurer shall notify the state treasurer, who will recalculate the actuarial assumptions based on the change in titleholders and change in value.*

3. *The state treasurer will determine if any additional amount needs to be paid for the cost of the certificate for that property and notify the titleholders and the county treasurer.*

4. *A recalculation may not be needed if a deletion occurs solely through the death of a titleholder without transfer of the decedent's interest to another person, including, without limitation, the death of a joint tenant with survivorship rights.*

Sec. 21. *The state treasurer may deny an application if a titleholder fails to provide to the state treasurer any information requested by the state treasurer relating to the application or an installment agreement within a reasonable period prescribed by the state treasurer. The titleholder is not prohibited from submitting another application in the future.*

Sec. 22. 1. *If the state treasurer determines that a titleholder has fraudulently misrepresented or omitted any information relating to an application or installment agreement, the state treasurer may deny the application, cancel the installment agreement or revoke the certificate.*

2. *If the state treasurer cancels the installment agreement, the state treasurer will so notify the titleholder and:*

(a) *Prepare a refund in the manner and subject to the provisions set forth in NRS 361.900 for a refund upon the rescission of an installment agreement; and*

(b) *Remit the refund to the titleholder within 90 days.*

3. *If the state treasurer revokes the certificate, the state treasurer will so notify the titleholder and:*

(a) Prepare a refund in the manner and subject to the provisions set forth in NRS 361.915 for a refund upon the relinquishment of allodial title; and

(b) Remit the refund to the titleholder within 90 days.

Sec. 23. 1. *The state treasurer recommends that an allodial titleholder consult with a tax professional concerning:*

(a) The income tax liability of the titleholder with regard to the income and interest earned on the money in the allodial title trust fund attributable to the money paid into the allodial title trust fund by the titleholder; and

(b) Whether and to what extent the property taxes paid by the state treasurer from the allodial title trust fund with respect to the property of the titleholder are deductible by the titleholder.

2. *Each application for allodial title must list the first titleholder as the designee. The state treasurer will provide the designee with an annual statement listing:*

(a) The proper share of income earned on the account of the titleholder in the allodial title trust fund, with any appropriate adjustments thereto; and

(b) The amount of tax actually paid each year with respect to the property, and other information relating to the program.

Sec. 24. 1. *The state treasurer will ensure that the allodial title trust fund is efficiently and securely maintained.*

2. *Not more than 2 percent of the money in the allodial title trust fund will be used by the state treasurer to cover investment and administrative expenses, which will be deducted annually.*