

Chapter 361 of NAC

LCB File No. T002-07

ADOPTED TEMPORARY REGULATION OF
THE NEVADA TAX COMMISSION

Filed with the Secretary of State on December 21, 2006

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

AUTHORITY: NRS 360.090, 361.4734.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. As used in sections 9 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.

Sec. 3. “Hearing Officer” has the meaning ascribed to it in NAC 360.035.

Sec. 4. “Intervenor” has the meaning ascribed to it in NAC 360.065(2).

Sec. 5. “Party” means a person, government, governmental agency or political subdivision of a government entitled to appear in a proceeding of the Commission. The term includes an intervener.

Sec. 6. “Petitioner” has the meaning ascribed to it in NAC 360.065(3).

Sec. 7. “Staff” has the meaning ascribed to it in NAC 360.040.

Sec. 8. "Tax receiver" means the county assessor or county treasurer in the case of determinations referred to in NRS 361.4734(1)(a) or the Department in the case of determinations referred to in NRS 361.4734(1)(b).

Sec. 9. 1. A petitioner wishing to appeal a decision to the Commission pursuant to NRS 361.4734(2) shall do so by filing a written notice of appeal with the Commission on a form prescribed and made available by the Department, by serving the same on the Department, in accordance with NAC 360.045, within the 30 day period prescribed in NRS 361.4734(2). In addition to the information required by NAC 360.045(4), the notice of appeal must include:

- (a) The name and mailing address of the petitioner and his contact person, if any;*
- (b) The telephone number for daytime business hours and facsimile number, if available, of the petitioner and his contact person, if any;*
- (c) The e-mail address, if available, of the petitioner and his contact person, if any;*
- (d) The tax years being appealed;*
- (e) A description of the property, which may include the assessor's parcel number or identifying number of the property on which the petitioner is appealing the property tax abatement;*
- (f) A copy of the tax receiver's decision for the year in question on the property that is the subject of the appeal; and*
- (g) A statement of the relief sought.*

2. No later than 5 business days after filing the notice of appeal of a determination rendered pursuant to NRS 361.4734(1)(a), the petitioner shall file a written certification of service of the written notice of appeal on the tax receiver.

Sec. 10. 1. After receipt of a notice of appeal filed in compliance with subsection NRS 361.4734(2), the appeal will be assigned to a hearing officer appointed by the Commission to hear appeals under this section.

(a) The hearing will be conducted by the hearing officer in the manner provided in NAC 360.100 through 360.155.

(b) Notice of the hearing shall be given in the manner provided in NAC 360.095.

(c) Intervenors may participate in the manner provided by NAC 360.070.

(d) At any evidentiary hearing, the petitioner and the tax receiver shall be afforded the same rights as those enumerated in NAC 360.080.

(e) Appearances and representation of the parties must be made in the same manner as provided in NAC 360.085.

2. After the close of the evidentiary hearing, the hearing officer shall file with the Commission a proposed order that sets forth the findings and conclusions of the hearing officer and the reasons and bases for those findings and conclusions. The proposed order must be served on each party of record.

(a) Stipulated agreements do not require findings of fact or conclusions of law by the hearing officer.

Sec. 11. 1. Any party of record may file written objections to the proposed order within 20 days after receipt of service of the proposed order. The written objections shall state with particularity the issues presented, the points of law or fact which are relied on and the relief requested.

(a) A party filing an objection shall serve the objection on all parties.

(b) The other parties to the appeal may offer a reply to the written objection within 15 days after receipt of service of the written objection. Any replies must be served on all parties.

(c) No further written argument shall be filed unless requested by the Commission.

2. In the event the parties do not lodge a written objection pursuant to subsection 1 of this section, the order will be placed on the consent agenda of the next Commission meeting, for adoption or other review, including remand to the hearing officer for further proceedings.

3. In the event a party lodges a written objection to the hearing officer's proposed order with the Commission within twenty days of receipt of service of the order or the Commission elects to review the hearing officer's proposed order outside of the consent agenda (other than to remand to the hearing officer for clarification), the Commission shall notice the matter for hearing at a subsequent Commission meeting, on at least fifteen days notice to the parties unless the parties shall have waived such notice in writing or on the record before the Commission.

Sec. 12. In a hearing before the Commission, the order in which argument will ordinarily be received from the parties is:

- 1. Orientation by staff;*
- 2. Argument by the petitioner;*
- 3. Argument by interveners;*
- 4. Argument by the any other party; and*
- 5. Rebuttal by the petitioner.*

Sec. 13. The hearing before the Commission shall be based on the record made before the hearing officer. If the Commission determines the record to be inadequate, the

Commission may remand the case to the hearing officer for further proceedings or open the record and hear evidence anew.

Sec. 14. After the close of oral argument, the Commission may make a final order which adopts, reverses, or modifies, in whole or in part, the proposed order of the hearing officer or remand the matter to the hearing officer for further proceedings. The executive director shall issue the written order on behalf of the Commission.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T002-07**

The Nevada Tax Commission adopted temporary regulations assigned LCB File No. T002-07 which pertain to chapter 361 of the Nevada Administrative Code on November 13, 2006.

INFORMATIONAL STATEMENT

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

TEMPORARY REGULATIONS OF THE NEVADA TAX COMMISSION

The following statement is submitted for adopted amendments to Nevada Revised Statutes Code (NRS) 361.4734.

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation (Department), as staff to the Nevada Tax Commission (NTC), solicited comments from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
October 11, 2006	Workshop	November 2, 2006	356	177
October 11, 2006	Hearing	November 13, 2006	356	177

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Many oral and written comments were received at the workshop. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Department at (775) 684-2180 or by writing to the Department of Taxation, 1550 College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@tax.state.nv.us.

- 2. The number persons who:**
 - (a) Attended and testified at each workshop:**

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
November 2, 2006	24	10

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Commissioners/ Public Attended</u>	<u>Public Testified</u>
November 13, 2006	55	7

(c) Written Comments submitted to the agency:

<u>Date of Hearing</u>	<u>Number Received</u>
November 13, 2006	1

1 document of proposed language changes were submitted to the Department.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested businesses and persons, by notices posted at the Nevada State Library; various Department locations throughout the state; and at the Main Public Libraries in counties where an office of the Department is not located. Comments were also solicited by direct mail to 356 county assessors and the interested parties list maintained by the Department. Approximately 49% of the approximately 356 direct mail notices were sent to individuals or associations representing business.

The Department, NTC Members, County Assessors and the general public commented on all of the proposed language changes during the workshop process. Members of the NTC, Department, and general public commented during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Department at (775) 684-2100 or by writing to the Department of Taxation, 1550 College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@tax.state.nv.us.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Minor grammatical changes were made during the hearing to improve readability and clarify meaning. In addition, a requirement for an appeal form to be made available to the public by the Department of Taxation was added.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

The Temporary Regulation is intended to provide guidelines to taxpayers and county tax receivers for the appeal process before the Nevada Tax Commission. The guidelines will be of assistance to all parties in determining how to proceed in the appeal process. The proposed Temporary Regulation presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. However, the regulation could have a beneficial economic effect on certain businesses and the general public by providing consistent and reliable appeal process requirements for the efficient conduct of appeals. Those impacts cannot be quantified at this time.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Department anticipates little, if any, additional cost to administer the regulations.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

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

There are no federal regulations regarding the valuation of property.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Nevada Tax Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.