

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

**LCB File No. R081-11**

November 3, 2011

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

AUTHORITY: §§1-7, NRS 701A.100 and 701A.110 and section 18 of Assembly Bill No. 202, chapter 298, Statutes of Nevada 2011, at page 1651 (NRS 701A.115).

A REGULATION relating to energy-related tax incentives; establishing requirements for applications for partial tax abatements for the renovation of certain buildings or other structures by certain new manufacturing businesses in this State; and providing other matters properly relating thereto.

**Section 1.** Chapter 701A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

**Sec. 2. 1.** *A person who, with respect to a renovation project involving a building or other structure, wishes to apply to the Director pursuant to this chapter and section 18 of Assembly Bill No. 202, chapter 298, Statutes of Nevada 2011, at page 1651 (NRS 701A.115), for a partial tax abatement based on LEED-EB must 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.*

*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) Proof that the building or other structure has been registered with the U.S. Green Building Council;*

*(6) The applicable LEED-EB standard on which the certification of the building or other structure will be based;*

*(7) A statement containing the level and number of points of the applicable LEED-EB standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific LEED-EB credits that the project team intends to achieve;*

*(8) 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; and*

*(9) 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 LEED accredited professional assigned to the design team for the project or other person designated as the contact person for the project;*

*(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 LEED-EB certification;*

*(k) If the project is registered with the U.S. Green Building Council 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) Proof satisfactory to the Director that the applicant:*

*(1) Has located or is planning to locate a new manufacturing business in this State;*

*(2) Is employing or will employ at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive the abatement; and*

*(3) Will pay to the employees, other than management and administrative employees, of the new manufacturing business in this State an average hourly wage that is at least equal to the lesser of 100 percent of the average statewide hourly wage or 100 percent of the average*

*countywide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and*

*(m) Any other information requested by the Director.*

*3. Upon receipt of all information required by this section, the Director will:*

*(a) Notify the applicant in writing acknowledging that the application has been received;*

*and*

*(b) Forward a copy of the application and the written notification provided to the applicant to the:*

*(1) Chief of the Budget Division of the Department of Administration;*

*(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) Commission on Economic Development.*

*4. The applicant:*

*(a) Must identify any information included in the application which the applicant considers to be confidential; and*

*(b) Shall promptly amend the application if there is a significant change in the scope of the project.*

**Sec. 3. 1. Within 48 months after an application for a partial tax abatement is submitted to the Director pursuant to section 2 of this regulation, or within such time as the**

*Director, for good cause shown, extends the deadline, the applicant must submit to the Director:*

*(a) Proof that the building or other structure meets the equivalent of the silver level or higher of the LEED-EB Green Building Rating System adopted by the Director pursuant to NAC 701A.200; or*

*(b) An application to extend the period for providing such proof.*

*2. If an applicant has not submitted the proof or an application for extension required by subsection 1, the Director will consider the application abandoned and notify the:*

*(a) Applicant;*

*(b) Chief of the Budget Division of the Department of Administration;*

*(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) Commission on Economic Development.*

*3. If the Director, after reviewing the proof 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, issue a certificate of eligibility for the abatement and provide a copy to the:*

*(a) Applicant;*

*(b) Chief of the Budget Division of the Department of Administration;*

*(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) Commission on Economic Development.*

*4. The certificate of eligibility will include the duration and annual percentage of the partial tax abatement as provided in subsection 4 of section 18 of Assembly Bill No. 202, chapter 298, Statutes of Nevada 2011, at page 1652 (NRS 701A.115), and section 4 of this regulation 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. If the Director, after reviewing the proof 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, issue a certificate of ineligibility for the abatement and provide a copy to the:*

- (a) Applicant;*
- (b) Chief of the Budget Division of the Department of Administration;*
- (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) Commission on Economic Development.*

*↪ 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. If a certificate of eligibility is issued pursuant to subsection 3:*

*(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 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. 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. 4.** *For projects eligible under section 2 of this regulation, if the Director issues a certificate of eligibility pursuant to section 3 of this regulation for a building or other structure that meets the equivalent of the silver level or higher of the LEED-EB Green Building Rating System adopted by the Director pursuant to NAC 701A.200, the Director will set the duration of the partial tax abatement for the building or other structure for a period not to exceed 1 year and in an amount that equals, for a building or other structure that meets the equivalent of:*

*1. The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding associated land;*

2. *The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding associated land; or*

3. *The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding associated land.*

**Sec. 5.** *1. The Director may require an applicant who has been issued a certificate of eligibility pursuant to section 3 of this regulation or the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates to submit to the Director 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.*

*2. After a certificate of eligibility has been issued pursuant to section 3 of this regulation, the applicant who has been issued the certificate of eligibility or the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates shall:*

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

*(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.*

*3. 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.*

*4. 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 Department of Administration;*
- (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) Commission on Economic Development.*

*5. 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.*

*6. 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-EB Green Building Rating System adopted by the Director pursuant to NAC 701A.200, 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. 6.** NAC 701A.010 is hereby amended to read as follows:

701A.010 As used in NAC 701A.010 to 701A.290, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 701A.020 to 701A.190, inclusive, have the meanings ascribed to them in those sections.

**Sec. 7.** NAC 701A.220 is hereby amended to read as follows:

701A.220 1. A person who, with respect to a 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 or LEED-CS ~~[,]~~ **must** submit an application to the Office of Energy on a form prescribed by the Director within 120 days after receiving local government approval of the construction project . ~~[; or~~

~~—(b) Will not be based on LEED-NC or LEED-CS, 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.]~~

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;
- (8) The applicable LEED standard on which the certification of the building or other structure will be based;
- (9) A statement containing the level and number of points of the applicable LEED standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific LEED credits that the project team intends to achieve;
- (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 or construction 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 LEED accredited professional 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 LEED certification;

(k) If the project is registered with the U.S. Green Building Council 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.

3. Upon receipt of all information required by this section, 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 Department of Administration;

(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) Commission on Economic Development.

4. The applicant must:

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

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

5. The Director will not accept an application pursuant to this section for a building or other structure that on the date the application is registered has been issued a certificate of occupancy and has been certified by the U.S. Green Building Council.