



BRIAN SANDOVAL  
*Governor*

## STATE OF NEVADA

### DEPARTMENT OF BUSINESS & INDUSTRY HOUSING DIVISION

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BRUCE BRESLOW  
*Director*

CJ MANTHE  
*Administrator*

## NOTICE OF INTENT TO ACT UPON A REGULATION

### NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS OF THE NEVADA HOUSING DIVISION LCB FILE NO. R115-14

#### REGARDING NAC 319.951 to 319.999 Relating to the Affordable Housing Tax Credit Program Tuesday, January 6, 2015, 11:00 a.m.

The Nevada Housing Division (the "Division") of the Department of Business and Industry will hold a public hearing at **11:00 a.m. on the 6<sup>th</sup> day of January of 2015** at the locations shown below and via tele-conference.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 319 of the Nevada Administrative Code.

The **Hearing** will be held in person and via video conference at the following locations. For **conference call** access, you may dial in at: (888) 636-3807, Access Code: 3042696.

#### **Public Hearing locations:**

Nevada Housing Division  
Conference Room  
7220 Bermuda Road, Suite B  
Las Vegas, NV 89119  
702-486-7220

Nevada Housing Division  
Conference Room  
1535 Old Hot Springs Rd., Suite# 50  
Carson City, NV 89706  
775-687-2040

All documents are available at [www.housing.nv.gov](http://www.housing.nv.gov) or at the following locations. To request documents and/or information please contact:

Mark Licea  
Nevada Housing Division  
7220 Bermuda Road, Suite B  
Las Vegas, NV 89119  
702-486-7254

Mike Dang  
Nevada Housing Division  
1535 Old Hot Springs Rd., Suite# 50  
Carson City, NV 89706  
775-687-2033

## AGENDA

1. Call to Order—Mike Dang, Chief of Programs
2. **General Public Comments**
3. **Specific Comments** Regarding draft NAC 319.951 to 319.999 regulations: Introduction, purpose, major changes, consideration of received comments and questions.
4. **General Public Comments**
5. Adjournment.

No action may be taken on any matter raised under this agenda item until the matter itself has been specifically included on an Agenda as an item upon which action will be taken. Comments cannot be restricted based upon proposed NAC regulations viewpoint.

This notice has been mailed to persons as provided in NRS 233b and NRS 241.020 and NAC 319.971, and has been posted at the following locations: The Division's offices in Carson City and Las Vegas as well as the Division's website, [www.housing.nv.gov](http://www.housing.nv.gov); the Nevada Public Notice website, <https://notice.nv.gov/>; the Nevada State Library; and the Office of the Director, Business and Industry in Carson City.

## ADDITIONAL NOTICES

1. Items may be taken out of order listed on the Agenda;
2. Two or more Agenda items may be combined for consideration;
3. Items may be removed from the Agenda or delayed at any time;
4. Public comment may be limited to 10 minutes or less per person. Comments cannot be restricted based upon meeting purpose viewpoint;
5. Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the hearings. If you plan to attend a hearing and require assistance please contact the Division in advance of the hearing date. You may contact Denise Cox, Section 504 coordinator, at 775.687.2044. In Las Vegas, you may also contact Mark Licea at 702-486-7254. In Reno or Carson City, you may also contact Mike Dang at 775-687-2033. The TDD Number is 800-326-6868.
6. Action may be taken only on those items denoted "for possible action."

## INFORMATION REGARDING ADOPTION

This notice of intent to act upon a regulation is prepared pursuant to NRS 233B.060 and NRS 233B.0603.

NRS 233B.064.2. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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.

### 1. Need and Purpose

The proposed regulation is needed for the purpose of improving the effectiveness and efficiency of the tax credit program.

### 2. Text Availability

The text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063 eliminates or reduces redundancies, tautologies, and potential conflicts among the Internal Revenue Service Code §42, the Department of Treasury §1.42, the Code's §42 mandated Qualified Allocation Process and the Nevada Administrative Code §319. It can be obtained from the Division's website: <http://housing.nv.gov>

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

### I. Adverse and beneficial effects

I.a. The estimated adverse economic effects of the regulation on the business which it is to regulate and on the public are that there will be none. The proposed regulation applies to multi-family property developers and is designed to reduce for businesses redundancies and inconsistencies between the IRS mandated Qualified Allocation Plan (QAP) and the NAC.

I.b. The estimated beneficial economic effects of the regulation on the business which it is to regulate and on the public are favorable. The proposed regulation applies to multi-family property developers and is designed to reduce for businesses redundancies and inconsistencies between the IRS mandated QAP and the NAC.

### II. Immediate and long-term effects.

II.a. The immediate effects on the business which it is to regulate and on the public are none at the time of this posting.

II.b. The long-term effects on the business which it is to regulate and on the public are none at the time of this posting and are estimated thereafter to be a reduction in administrative time and affected business community time.

### 4. Impact on small business

The methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608 are two-fold. The first method was to send out a survey for comments to the low-income housing development community. The Division provided a copy of the proposed NAC and requested comments. The second method was to call

and discuss the proposed regulation with potentially affected members of the low-income housing development community. The result of the survey and discussions was that there were no material negative impacts expected.

#### 5. Estimated cost to the agency for enforcement of the proposed regulation

The estimated cost to the agency for enforcement of the proposed regulation would be any direct legal costs and related administrative handling costs in case a situation arose which required the Division's Deputy Attorney General's involvement. Such a situation could arise where a developer or other party debated a point in the QAP or the NAC. The costs would also be any allocated indirect staff costs for working with a developer to clarify the new regulations. These costs are estimated to be minimal, at the most.

#### 6. Overlap and Duplication

The Division knows of no other state regulations which this proposed regulation may overlap or duplicate. The current regulations do overlap or are unnecessarily duplicative, tautological, or redundant to the federal regulations promulgated by the Internal Revenue Code (IRC) § 42 and the United States Department of the Treasury, 26 CFR § 1.42 or of the IRC § 42 mandated IRC Qualified Allocation Plan.

#### 7. Regulations required pursuant to federal law

The proposed regulations are not required pursuant to federal law. In fact, the IRS advised the State to review the body of similar regulations promulgated by states of similar populations. The IRS pointed out that many states of similar populations do not have state regulations governing the low-income housing tax credit process because Internal Revenue Code § 42 and its related provisions, such as 26 CFR § 1.42 and other IRS rulings are the prevailing law on the matter. Combined with the IRC § 42 mandated QAP, the view was that many states have found this level of regulation sufficient. The Division did conduct such a review and did observe the conditions the IRS indicated the Division would find.

#### 8. Regulation provisions more stringent than federal regulations

The proposed regulations are not more stringent than federal regulations regulating the same activity.

#### 9. Time, place and manner for comments.

The time, place and manner for comments regarding the proposed regulation are presented at the beginning of this notice.

NRS 233B.064, Subsection 2. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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.

The proposed regulation does not establish any new fees nor does it increase an existing fee.

This notice is being, has been, or will be, timely submitted to the Legislative Counsel Bureau for inclusion in the Register of Administrative Regulations created pursuant to NRS 233B.0653.

Persons wishing to comment upon the proposed action of the Nevada Housing Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the addresses and parties shown above. Written submissions must be received

by the Housing Division on or before the close of business, Friday, December 12, 2014. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Housing Division may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be Adopted 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 regulation to be Adopted will be available at the Division office addresses shown above and in all counties in which an office of the agency is not maintained, 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 written request. A reasonable fee may be charged for copies if it is deemed necessary.