

# NOTICE OF INTENT TO ACT UPON A REGULATION

## Notice of Hearing for the Amendment

### of Regulations of the

### Department of Business & Industry Housing Division

The Housing Division will hold a public hearing at 3:30 pm., on Friday, 26th, September 2008, at 1535 Old Hot Springs Road Suite 50, Carson City, Nevada and at 1771 East Flamingo Road, Suite 103-B, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to Chapter 319 of the Nevada Administration Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

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

The regulation amendments improve the administration of the Division's first time homebuyer program and incorporate new procedures to effectuate A.B. 629 of the 2007 Legislature.

**2. Either the terms or the substance of the regulations to be adopted, amended, or repealed, or a description of the subjects and issues involved.**

The regulations pertain to the Housing Division's first time home buyer program and its administration. Older outdated sections restricting adoption of H.R.3221 provisions are being removed.

**3. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.**

A joint location workshop will have been conducted on September 5<sup>th</sup>, 2008 with additional time extended for written comments. Affected current pending applicants or Memorandum of Understanding partners were also noticed with the proposed changes and comments solicited.

**4. The estimated economic effect of the regulation on the business that it is to regulate and on the public. These must be stated separately and in each case must include:**

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

There is no direct economic effect on the public. The regulations do not regulate any business. The proposed regulations pertain to how loan applicants will have their applications processed and advanced through to completion and loans funded. Possible long term impact would be a slight impact on the inventory of unsold homes.

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

There is no cost to the Division for enforcement of the proposed regulation beyond existing current fiscal year Legislatively approved budget.

**6. A description of and citation to any regulations of other state or local governmental agencies that 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.**

There is no overlap or duplication of regulations.

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

The regulations are not required.

**8. 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 not more stringent.

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

There is no change in existing Housing Division fee structures as a result of these proposed regulation changes

Persons wishing to comment upon the proposed action of the Department of Business and Industry may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to the Chief Financial Officer, Nevada Housing Division 1535 Old Hot Springs Road, Suite 50, Carson City, NV 89706. Written submissions must be received by on or before August 28, 2008. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department may proceed immediately to act upon any written submissions,

A copy of this notice and the regulation to be amended 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 amended will be

available at the Department of Business and Industry's Housing Division 1535 Old Hot Springs Road, Suite 50 Carson City, Nevada, and at 1771 E. Flamingo, Las Vegas, Nevada 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 request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

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 or incorporate therein its reason for overruling the consideration urged against its adoption.

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

Department of Business & Industry  
555 East Washington, Suite 4900  
Las Vegas, NV 89101

Department of Business & Industry  
901 South Stewart Street, Suite 1003  
Carson City, NV 89701

Nevada Housing Division  
1535 Old Hot Springs Road  
Suite 50  
Carson City, Nevada 89706

Nevada Housing Division  
1771 F. Flamingo  
Suite 103-B  
Las Vegas, Nevada 89119

**Posted in all County Libraries throughout the State of Nevada.**

REVISED PROPOSED REGULATION OF THE  
ADMINISTRATOR OF THE HOUSING DIVISION OF  
THE DEPARTMENT OF BUSINESS AND INDUSTRY

LCB File No. R192-08

August 4, 2008

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

AUTHORITY: §§1-12 and 19, NRS 319.140 and section 3 of chapter 348, Statutes of Nevada 2007, at page 1657; §§13-18, NRS 319.140 and 319.210.

A REGULATION relating to affordable housing; providing for the awarding of grants by the Housing Division of the Department of Business and Industry to qualified nonprofit organizations to establish an employer-assisted housing program; authorizing a recipient of such a grant to make loans to eligible borrowers to provide assistance in the purchase of affordable housing; revising provisions governing programs administered by the Division relating to mortgage loans; and providing other matters properly relating thereto.

**Section 1.** Chapter 319 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 12, 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.** *“Eligible borrower” means a person who:*

- 1. Is a member of a participating employee group;*
- 2. Is a member of an eligible family as defined in NRS 319.060;*

3. *Has a household income that does not exceed 170 percent of the median income for the area in which the home is located, unless the Division approves a higher limit; and*

4. *Completes a homebuyer education class approved by the Division.*

Sec. 4. *“Employer-assisted housing program” means a program to provide down-payment and closing-cost assistance to employees who are members of a participating employee group and are employed by a participating employer in securing affordable housing in this State.*

Sec. 5. *“Grant” means a grant of money awarded by the Division pursuant to sections 2 to 12, inclusive, of this regulation to a qualified organization to establish an employer-assisted housing program.*

Sec. 6. *“Participating employee group” means a recognized group of employees of a participating employer.*

Sec. 7. *“Participating employer” means an employer that has agreed to participate in an employer-assisted housing program.*

Sec. 8. *“Qualified organization” means an organization which:*

1. *Is a nonprofit organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3);*
2. *Is in good standing with the Office of the Secretary of State;*
3. *Has the specifically designated purpose of promoting affordable or subsidized single-family housing located within this State;*

4. *Has demonstrated the ability for a period of not less than 5 consecutive years to process and service loans either directly or in conjunction with a loan servicer approved by the Division; and*

5. *Has a financial net worth of not less than \$1,000,000.*

Sec. 9. 1. *The Division may award grants of money to qualified organizations to establish employer-assisted housing programs.*

2. *If a qualified organization that receives a grant fails to maintain a net worth of \$1,000,000, excluding the value of the grant, the organization shall immediately return to the Division any remaining amount of the grant that has not been committed for expenditure.*

3. *Before a qualified organization that receives a grant may contract or award a subgrant for services of more than \$2,000 to be paid from the proceeds of the grant, the contract or subgrant must be approved by the Administrator.*

4. *A qualified organization that receives a grant is subject to audit by the Division with respect to the grant at any reasonable time to ensure its compliance with all applicable laws and regulations of this State.*

Sec. 10. 1. *A qualified organization that receives a grant may make a secured loan of not more than \$20,000 from the proceeds of the grant to an eligible borrower for down-payment and closing-cost assistance in the purchase of affordable housing.*

2. *A qualified organization that makes such a loan shall:*

(a) *Verify the eligibility of the borrower;*

(b) *Ensure timely and accurate disbursement of the loan money to the borrower;*

(c) *Administer the loan for as long as the loan has principal outstanding;*

*(d) Annually verify, through a current policy of homeowners' insurance or property tax bill, that the borrower uses the home as his primary residence;*

*(e) Confirm that the borrower is a member of a participating employee group;*

*(f) Not lend to a borrower for a home which is outside this State or which is not located in a county in this State in which his employer has an established place of business;*

*(g) Provide documentation that informs the borrower of the possibility of federal tax liability if any portion of the principal of the loan is forgiven; and*

*(h) Verify that the borrower has completed a homebuyer education class approved by the Division before funding the loan.*

*3. A loan made by a qualified organization pursuant to this section must not be funded unless:*

*(a) The participating employer by whom the borrower is employed contributes matching money equal to the amount of the loan; and*

*(b) The borrower contributes at least 1 percent of the total purchase price of the home toward the purchase of the home.*

*4. All terms of the loan, including, without limitation, terms of repayment, interest rates, fees and underwriting criteria, must be specified in a memorandum of understanding approved by the qualified organization and an authorized representative of the participating employee group of which the borrower is a member.*

*5. A loan may have an interest rate of zero percent.*

*6. A loan becomes due and payable:*

*(a) Upon the sale, transfer or refinancing of the home;*

- (b) Upon the death of the borrower and the settlement of his estate;*
- (c) If the borrower ceases his employment within the industry of the participating employer that provided the matching money for the loan;*
- (d) If the borrower is a member of a labor union at the time of the loan, upon the borrower ceasing to be a member of the labor union;*
- (e) If the borrower operates a business from the home; or*
- (f) If the borrower ceases to reside in the home as his primary residence.*

*7. A loan must be secured, but may be subordinated to the rights of not more than two other lenders to allow the borrower to take advantage of other forms of down-payment assistance so long as the total of all forms of secured debt is not more than 99 percent of the verified sale price of the home.*

*8. If a qualified organization imposes administrative fees on borrowers to whom it makes loans, the total amount of such fees imposed on all borrowers must not exceed 10 percent of the amount of the grant received by the qualified organization.*

*Sec. 11. 1. The length of a borrower's employment is not a condition of eligibility for a loan.*

*2. Two or more employees may not apply for multiple loans pursuant to section 10 of this regulation on the same property.*

*Sec. 12. In accordance with the provisions of section 3 of chapter 348, Statutes of Nevada 2007, at page 1657, a qualified organization that receives a grant pursuant to sections 2 to 12, inclusive, of this regulation may, on or before June 30, 2009, commit the proceeds of the grant for expenditure, but shall not commit any remaining proceeds of the grant for expenditure*

*after June 30, 2009. The qualified organization shall, on or before September 1, 2009, transfer to the Division any remaining proceeds of the grant that have not been committed for expenditure on or before June 30, 2009, for reversion to the State General Fund.*

**Sec. 13.** NAC 319.300 is hereby amended to read as follows:

319.300 As used in NAC 319.300 to 319.489, inclusive, unless the context otherwise requires, the words and terms defined in NAC ~~319.310~~ **319.320** to 319.425, inclusive, have the meanings ascribed to them in those sections.

**Sec. 14.** NAC 319.330 is hereby amended to read as follows:

319.330 “Eligible borrower” means a person who:

1. Desires to obtain financing for the acquisition cost of a qualified residence; ~~and~~
2. ~~Meets the criteria set forth in NAC 319.466.~~ **Qualifies as an eligible family pursuant to NRS 319.060; and**
3. **Has a household income that does not exceed 170 percent of the median income for the area in which the home is located, unless bond counsel selected by the Division approves a higher limit for a particular program.**

**Sec. 15.** NAC 319.365 is hereby amended to read as follows:

319.365 “Household income” ~~is~~

~~1. Means} means the income of the mortgagor and of any other person who will be living in the qualified residence and who is at least 18 years of age. ~~and~~~~

~~2. Must be determined in accordance with the provisions of 42 U.S.C. § 1437f and the regulations adopted pursuant thereto concerning determination of income.~~

**Sec. 16.** NAC 319.425 is hereby amended to read as follows:

319.425 "Qualified residence" means a residence that:

1. Is a single-family residence; *and*
  2. Meets the criteria for a principal residence set forth in 26 C.F.R. § 6a.103A-2(d)(3). ~~;~~
- and*
- ~~3. Has an acquisition cost that does not exceed the maximum purchase price for a single-family residence.~~

**Sec. 17.** NAC 319.466 is hereby amended to read as follows:

319.466 ~~1-1~~ An eligible borrower must:

- ~~{(a)} Have a household income of not more than the maximum income for eligible borrowers for a family the size of the borrower's family.~~
- ~~{(b)} 1. Meet the criteria for underwriting applied by the Federal Housing Administration, the Department of Veterans Affairs or the private mortgage insurance company, as appropriate, depending on which entity insures or guarantees the mortgage loan.~~
- ~~{(c)} 2. Have assets, including, without limitation, savings accounts, stocks, bonds and equity in real property, that do not exceed 50 percent of the acquisition cost of the qualified residence, unless the borrower is disabled or elderly and the Division determines that such assets are the primary source of income for the borrower.~~
- ~~{(d)} Except as otherwise provided in this paragraph, have no ownership interest in a residence that was the principal residence of the borrower, other than a manufactured home that is not permanently affixed to real property, at any time within the 3 years immediately preceding the date on which the mortgage loan is originated. The provisions of this paragraph do not apply to a person applying to finance the purchase of a targeted area residence.~~

~~(e) Have not previously obtained a mortgage loan pursuant to a program.~~

~~2. As used in this section:~~

~~(a) "Principal residence" means a residence that meets the criteria for a principal residence set forth in 26 C.F.R. § 6a.103A-2(d)(3).~~

~~(b) "Targeted area residence" has the meaning ascribed to it in 26 U.S.C. § 143(j) and 26 C.F.R. § 6a.103A-2(b)(3).†~~

**Sec. 18.** NAC 319.310, 319.375 and 319.385 are hereby repealed.

**Sec. 19.** 1. This regulation becomes effective upon filing with the Secretary of State.

2. Section 12 of this regulation expires by limitation on October 1, 2009.

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### TEXT OF REPEALED SECTIONS

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**319.310 "Acquisition cost" defined. (NRS 319.140, 319.210)** "Acquisition cost" has the meaning ascribed to it in 26 U.S.C. § 143(k) and 26 C.F.R. § 6a.103A-2(b)(8).

**319.375 "Maximum income for eligible borrowers" defined. (NRS 319.140, 319.210)**  
"Maximum income for eligible borrowers" means the maximum household income established by the Division in accordance with the provisions of 26 U.S.C. § 143(f) that an applicant for a mortgage loan may earn to be an eligible borrower in a particular program.

**319.385** “Maximum purchase price for a single-family residence” defined. (NRS 319.140, 319.210) “Maximum purchase price for a single-family residence” means the maximum price established by the Division in accordance with the provisions of 26 U.S.C. § 143(e) for which a single-family residence may be purchased to meet the criteria for a qualified residence for a particular program.

Digest for Revised Proposed Regulation R\_192-08

Section 3 of Assembly Bill No. 629 of the 2007 Session of the Legislature appropriated money to the Housing Division of the Department of Business and Industry to provide grants for the creation of employer-assisted housing programs, and required the adoption of regulations to govern the provision of such grants. (Section 3 of chapter 348, Statutes of Nevada 2007, at page 1657) **Section 9** of this regulation provides for the awarding of such grants to qualified nonprofit organizations. **Section 10** of this regulation authorizes a qualified organization that receives such a grant to make a secured loan of not more than \$20,000 from the proceeds of the grant to an eligible borrower for down-payment and closing-cost assistance in the purchase of affordable housing, and sets forth the duties of the organization concerning the making of such a loan. **Section 10** also provides that such a loan may not be funded unless the participating employer by whom the borrower is employed contributes matching money equal to the amount of the loan and the borrower contributes at least 1 percent of the total purchase price of the home toward the purchase of the home. **Section 10** also sets forth the conditions under which the loan becomes due and payable, and limits the administrative fees that may be charged by a qualified organization that makes such loans.

Existing regulations set forth provisions governing programs administered by the Division relating to mortgage loans. (NAC 319.300-319.489) **Sections 13-18** of this regulation revise several provisions applicable to such programs.