

PROPOSED REGULATION OF THE DIRECTOR OF THE OFFICE OF ENERGY

LCB File No. R128-18

GREEN BUILDINGS: ELIGIBILITY FOR PARTIAL ABATEMENT OF PROPERTY TAXES

**SUMMARY OF CHANGES PER PUBLIC COMMENT SUBMITTED AT WORKSHOP AND
PRIOR FOR HEARING:**

New Definition:

NAC701A.XXX “Historical Baseline” defined. “Historical Baseline” means an average of the buildings site energy data calculated from total annual energy consumption from the three [contiguous] previous years [of the previous five], normalized for climate, building use, and occupancy.

Sec. 2. NAC 701A.030 is hereby amended to read as follows:

701A.030 “Building or other structure” means an improvement on real property that is being considered for or has been granted certification by the ~~[U.S. Green Building Council]~~ **Green [Building] Business Certification Inc.[corporation]** or the Green Building Initiative. *The term does not include an improvement on real property the principal use of which is as a parking facility for vehicles.*

Intent:

1. Correct the name of the certifying entity from USGBC to GBCI.
2. Clarify that ~~[parking structures are not to be included in the square footage of the GBTA project even if the certifying rating system requires the square footage to be included in the certification process]~~ ***the square footage of a standalone parking structure that does not serve the building or structure is not to be included in the calculation of the partial tax abatement.***

Reasoning:

1. USGBC developed the LEED rating system and GBCI is the entity that administers the program and provides the certification for the projects.
2. Parking structures have a separate rating system through GBCI, known as ParkSmart which has not been adopted by the GOE. Per NRS 701A.110, the Director is authorized to adopt a system that includes standards and ratings equivalent to LEED’s system, but since this is an agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, the adoption of that system must be done through a regulation change. The GOE has reviewed other rating systems including ParkSmart and has decided not to pursue the adoption of a new rating system through the current regulation change.

Sec. 4. NAC 701A.130 is hereby amended to read as follows:

701A.130 “LEED standard” means ~~[all versions of a specific rating system within]~~ the LEED Green Building Rating System, ~~[including, without limitation, LEED NC, LEED EB and LEED CS.]~~ *developed by the U.S. Green Building Council and administered by the Green **[Building] Business Certification Inc. [corporation]** and adopted for use in this State by the Director pursuant to NAC 701A.200.*

Sec. 7. NAC 701A.217 is hereby amended to read as follows:

701A.217 For the purposes of determining whether a building or other structure is eligible for a *partial* tax abatement pursuant to [NRS 701A.110](#) and [NAC 701A.010](#) to [701A.290](#), inclusive:

1. A rating of ~~[[~~**Two Green [g]Globes**~~]]~~ under ~~[a]~~ *the* Green Globes ~~[standard]~~ *rating system* shall be deemed to be equivalent to the silver level of the LEED ~~[Green Building]~~ rating system.
2. A rating of ~~[[~~**Three Green [g]Globes**~~]]~~ under ~~[a]~~ *the* Green Globes ~~[standard]~~ *rating system* shall be deemed to be equivalent to the gold level of the LEED ~~[Green Building]~~ rating system.
3. A rating of ~~[[~~**Four Green [g]Globes**~~]]~~ under ~~[a]~~ *the* Green Globes ~~[standard]~~ *rating system* shall be deemed to be equivalent to the platinum level of the LEED ~~[Green Building]~~ rating system.

Sec. 8. NAC 701A.220 is hereby amended to read as follows:

701A.220 1. *An owner or applicant on behalf of the owner [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, LEED CS or GG NC,] within 120 days after registering the project with the Green **[Building] Business Certification Inc., or the Green Building Initiative, as applicable, submit [an application] to the Office of Energy a completed registration application on a form prescribed by the Director [within 120 days after receiving local government approval of the construction project; or**~~

~~(b) Will be based on a LEED standard other than LEED NC or LEED CS or based on GG CIEB, 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 or the Green Building Initiative, as applicable.] and such documentation as the Director may require to determine whether the project is eligible for the partial tax abatement.~~

2. **[Not later than 120 days after [Upon]** receipt of *the completed registration application and all [information] documentation required [by this section] pursuant to subsection 1 and 3, as applicable, and upon determining that the project is eligible for a partial tax abatement,* the Director will *issue the submitted project a project registration number and, [:*

~~(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 application approval* ~~[and the written notification provided to the applicant]~~ to the [:

~~—(1) Chief of the Budget Division of the Office of Finance;~~

~~—(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) Office of Economic Development.]~~ *owner or applicant on behalf of the owner and the persons and entities described in subparagraph (3) of paragraph (b) of subsection 1 of NRS 701A.110.*

3. ~~[The]~~ *In addition to any other requirement set forth in this section, the owner or applicant on behalf of the owner* must:

(a) Identify any information included in the application which the *owner or applicant on behalf of the owner* considers to be confidential; ~~[and]~~

(b) *If the owner or applicant on behalf of the owner is applying for a partial tax abatement* ~~[with respect to a retrofit or improvement project]~~ *involving an existing building or other structure, submit with the registration application such information and documentation as is necessary to* ~~[demonstrate that the building or other structure does not currently qualify for any level of certification under the LEED rating system or the Green Globes rating system]~~ *substantiate the “historical baseline” of the building’s site energy data; and*

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

(d) *Utilize an independent third-party to facilitate the energy model, commissioning report or energy audit, as applicable, and provide a copy of the appropriate report with the registration application. The applicant must submit to the Director with the applicant’s application for a certificate of eligibility submitted pursuant to NAC 701A.240 a* ~~[copy of an updated report]~~ *statement from the owner or applicant on behalf of the owner identifying the energy improvements that were implemented after the time period used to calculate the historical baseline of the buildings site energy data but before the* ~~[between the time of registration and the]~~ *submission of the applicant’s application for a certificate of eligibility.*

(e) *If an applicant is seeking to qualify for a partial tax abatement under the Green Globes rating system, the applicant must utilize a third-party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project for the purpose of obtaining certification by the Green Building Initiative. The applicant must submit to the Director* ~~[with the applicant’s registration application the initial green globes assessor report and submit]~~ *with the applicant’s application for a certificate of eligibility submitted pursuant to*

NAC 701A.240 a copy of the final report and findings of the assessor as the result of the assessment conducted pursuant to this subsection.

4. The Director will not accept ~~an~~ *a registration* application pursuant to this section for a building or other structure that on the date the *registration* application is *submitted* ~~registered~~ has ~~been issued a certificate of occupancy and has~~ ~~(a)~~ been certified by the ~~U.S. Green Building Council~~ *Green* ~~Building~~ *Business Certification Inc.*, or the Green Building Initiative. ~~;~~
~~[(b) qualifies for any level of certification under the LEED rating system or the Green Globes rating system.]~~
5. *The Director will not register a project that has not submitted a complete registration package including any items identified as missing from the original submission if the complete registration application and all required documentation is not submitted within 30 days of initial submission.*
6. *The Director will not grant:*
 - (a) *More than one partial tax abatement per parcel;*
 - (b) *A partial tax abatement on a parcel which was previously subject to a partial tax abatement;*
 - (c) *More than one partial tax abatement on a building or other structure, even if the building or other structure occupies more than one parcel; and*
 - (d) *A partial tax abatement on a building or other structure which was previously subject to a partial tax abatement.*
7. *The Director may deny a registration application submitted pursuant to this section for any failure to comply with the provisions of this chapter.*

Intent:

1. Eliminates the approval of more than one partial property tax abatement per parcel.
2. Eliminates the potential for a parcel to receive an abatement repeatedly after the initial expiration. *An Abatement does not include the property tax cap applied, only the properties that have received an abatement from GOE or GOED.*
3. Eliminates the approval of more than one abatement per building or structure.
4. Eliminates the potential for a building to receive an abatement repeatedly after the initial expiration.
5. Provides the Director the discretion of denying a partial abatement for any failure to comply with the requirements of the regulation.

Reasoning:

1. Awarding more than one tax abatement per parcel or building is allowing owners to submit projects separated by self-directed boundary lines and receive more than one abatement. The existing building abatements cap out at \$100,000.00, awarding 4 abatements on one parcel where the building is all connected is allowing the owner to circumvent the intent and receive more of an abatement than allowed in NRS 701A.110(6).
2. Clarifies that once a parcel has received an abatement in the past, it can no longer qualify for an abatement in the future.
3. Clarifies that only one abatement will be awarded per building and multiple abatements can no longer be awarded.
4. Restricts the partial abatement to only new projects, not allowing the project to receive a continuous abatement. This will cover the projects that have been deemed 'equivalent' by GOE but never received an actual certification from USGBC and disallow those from also reapplying for the abatement.
5. Allows the Director to deny an application that does not comply with all the requirements of the regulation and prescribed forms.

Sec. 10. NAC 701A.240 is hereby amended to read as follows:

701a.240 1. Within 48 months after ~~an~~ *a registration* application for a partial tax abatement is submitted to the Director pursuant to NAC 701A.220, or within such time as the Director, for good cause shown, extends the deadline, the **owner or applicant on behalf of the owner** must submit to the Director:

(a) *An application for a certificate of eligibility on a form prescribed by the Director. The application must be accompanied by:*

(1) *If the applicant is seeking a certificate of eligibility with respect to a retrofit or improvement project involving an existing building or other structure, all invoices reflecting the cost of improvements to the existing building or other structure;*

(2) Proof that the building or other structure:

~~{(1)}~~ (I) Meets the silver level or higher of the LEED ~~{Green Building}~~ rating system- ~~{adopted by the Director pursuant to NAC 701A.200;}~~; or

~~{(2)}~~ (II) Obtains a rating of ~~{Two Green}~~ ~~{g}~~ **Globes** or higher under ~~{a}~~ *the Green Globes* ~~{standard}~~ ~~{adopted by the Director pursuant to NAC 701A.213; or}~~ *rating system; and*

(3) *Such other documentation as the Director may require to determine whether **the owner or applicant on behalf of the owner** is eligible for the partial tax abatement; or*

(b) An application to extend the period for ~~{providing such proof.}~~ *submitting the information and documentation required by paragraph (a).*

2. If an **owner or applicant on behalf of the owner** has not ~~{submitted the proof or an application for extension required by}~~ *complied with the requirement of* subsection 1, the Director will consider the application abandoned and notify the ~~{~~

- ~~—(a) Applicant;~~
- ~~—(b) Chief of the Budget Division of the Office of Finance;~~
- ~~—(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) Office of Economic Development.~~ *owner or applicant on behalf of the owner and the persons and entities described in subparagraph (3) of paragraph (b) of subsection 1 of NRS 701A.110.*

3. *If an owner or applicant on behalf of the owner submits a separate registration application pursuant to NAC 701A.220 for one or more buildings or other structures that are part of a single, cohesive property with a single shared primary function, the number of points awarded under the LEED rating system or Green Globes rating system, as applicable, to each building or other structure for which a separate registration application is submitted:*

- (a) Must be calculated using an energy score for that building or other structure; and*
- (b) Must not be calculated using an energy score for the entire project.*

Intent:

~~[Eliminate the ability to include inefficient buildings or structures into a project to achieve the desired energy points.]~~ *Eliminates the ability to separately apply for an abatement wherein the structures or building(s) that are part of each separately submitted project, contribute to the overall energy score that is submitted for each building.* Requires the *energy* points achieved to be specific to the ~~[that]~~ building or structure ~~[.]~~ *that is applying for the abatement or requires the submission of one abatement application that would include all the structures or buildings that contribute to the energy score.*

Reasoning:

Since the beginning of the program, the use of a campus-wide energy score has been allowed for multiple projects. The separate projects share the same functions and subsequently achieve the same energy score. This has allowed for one building, separated only by invisible boundary lines, to be submitted as four separate projects and be awarded four separate partial tax abatements for a total tax abatement of \$400,000 rather than \$100,000 which was the cap put in place by the Legislature for existing buildings.

Sec. 11. NAC 701A.260 is hereby amended to read as follows:

701A.260 1. ~~[The Director may require an applicant who has been issued~~ *After* a certificate of eligibility *has been issued* pursuant to NAC 701A.240 ~~for the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates to submit to the Director on an annual or other reasonable basis 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.] and until the term of the abatement expires, the owner, or the applicant on behalf of the owner, of the building or other structure to which the certificate of eligibility relates shall annually, on or before the anniversary date of the issuance of the certificate of eligibility, submit to the Director a determination of eligibility form and all requested documentation and information requested, and beginning on the second year of the abatement and until the term of the abatement expires, include an energy efficiency report with the annual reporting. The form and energy efficiency report must contain such information and be accompanied by such supporting documentation as the Director may require to determine whether the building or other structure to which the certificate of eligibility relates continues to be eligible for the partial tax abatement to which the certificate of eligibility relates. The energy efficiency report will consist of ~~[a retro-commissioning report and an energy audit]~~ an update and analysis by a third party comparing the present energy performance of the building or other structure with the energy performance documented in the original energy model, commissioning report or energy audit submitted with the original application for certificate of eligibility.

The project may be exempt from submitting the energy efficiency report beginning on year 3 of the partial tax abatement, if the project can demonstrate that it ~~has~~ ~~[achieved an]~~ sustained or improved the Energy Star Rating ~~[of 85 or above]~~ or ~~[provide an]~~ equivalent rating ~~[if one cannot be determined with Energy Star]~~ that was achieved at the time the partial tax abatement was awarded.