

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

LCB File No. R140-01

January 31, 2002

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

AUTHORITY: §§1-48, NRS 319.140.

Section 1. Chapter 319 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Program” means a plan for the development or financing of affordable housing or housing for persons with special needs in this state which is administered by the division or by an instrumentality of the division or other nongovernmental entity that receives a loan, grant, service or commitment for a loan, grant or service from the division for that purpose.*

Sec. 3. 1. *The administrator, chief financial officer and deputy administrator of the division:*

(a) Shall serve as advisors to each instrumentality of the division; and

(b) May not vote on any issue before the governing body of such an instrumentality.

2. An instrumentality of the division shall:

(a) Possess the authority to make loans or grant money, or both, for purposes that are consistent with the mission and objectives of the division set forth in NRS 319.140; and

(b) Operate as a separate and distinct entity from the division.

3. *An instrumentality of the division may purchase accounting, data processing, financial and legal services from the division.*

4. *A nonprofit corporation created pursuant to paragraph (k) of subsection 3 of NRS 319.140:*

(a) May apply for and enter into letters of credit with the division pursuant to NRS 319.190 and may seek or obtain notes, loans or other obligations with a commercial lending institution or a development corporation.

(b) Shall include in its charter provisions that allow the nonprofit organization to loan money and provide grants to programs or projects that are consistent with the objectives of chapter 319 of NRS.

5. *A development corporation created pursuant to paragraph (k) of subsection 3 of NRS 319.140 shall:*

(a) Include in its bylaws or articles of incorporation provisions that allow it to enter into the direct development of projects or programs and joint venture development arrangements with other entities that are consistent with the provisions of NRS 319.140 and 319.190.

(b) Not apply for tax credits or money from the account for low-income housing created by NRS 319.500.

FIRST
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SECTION

Sec. 4. NAC 319.005 is hereby amended to read as follows:

319.005 As used in this chapter, unless the context otherwise requires:

1. “Administrator” means the administrator of the division.
2. “Affordable housing” means housing designed for use by a person or family that qualifies for assistance pursuant to a program or project sponsored by the division or an instrumentality of the division or for use by a person or family whose income does not exceed

150 percent of the median income for a person or family residing in the same county, as defined by the United States Department of Housing and Urban Development.

3. *“Development corporation” means a corporation that develops, builds, facilitates the building of or manages structures for residential housing.*

4. “Division” means the housing division of the department of business and industry.

~~13.~~ 5. “Governmental agency” has the meaning ascribed to it in NRS 319.070.

~~14.~~ 6. *“Instrumentality of the division” means a legal entity that is created pursuant to paragraph (k) of subsection 3 of NRS 319.140, including, without limitation:*

(a) A nonprofit foundation or corporation that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3); or

(b) A limited-liability company that is consistent with the objectives of chapter 319 of NRS.

7. “Lending institution” has the meaning ascribed to it in NRS 319.090.

~~15.~~ 8. “Mortgage” has the meaning ascribed to it in NRS 319.100.

~~16.~~ 9. “Mortgage loan” has the meaning ascribed to it in NRS 319.110.

~~17.~~ 10. “Real property” has the meaning ascribed to it in NRS 319.120.

~~18.~~ 11. “Residential housing” has the meaning ascribed to it in NRS 319.130.

12. *“Person with special needs” means a person identified by the division as needing assistance to obtain affordable or specialty housing.*

13. *“Specialty housing” means housing that is designated for a specific segment of the population by the division.*

SECOND
PARALLEL
SECTION

Sec. 5. NAC 319.005 is hereby amended to read as follows:

319.005 As used in this chapter, unless the context otherwise requires:

1. “Administrator” means the administrator of the division.

2. “Affordable housing” means housing designed for use by a person or family that qualifies for assistance pursuant to a ~~{program or}~~ project sponsored by the division ~~{or an instrumentality of the division}~~ or for use by a person or family whose income does not exceed 150 percent of the median income for a person or family residing in the same county, as defined by the United States Department of Housing and Urban Development.

3. “Development corporation” means a corporation that develops and builds or facilitates the building of or manages structures for residential housing.

4. “Division” means the housing division of the department of business and industry.

5. “Governmental agency” has the meaning ascribed to it in NRS 319.070.

6. ~~{“Instrumentality of the division” means a legal entity that is created pursuant to paragraph (k) of subsection 3 of NRS 319.140, including, without limitation:~~
~~—(a) A nonprofit foundation or corporation that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3); or~~
~~—(b) A limited liability company that is consistent with the objectives of chapter 319 of NRS.~~

~~7.]~~ “Lending institution” has the meaning ascribed to it in NRS 319.090.

~~{8.}~~ 7. “Mortgage” has the meaning ascribed to it in NRS 319.100.

~~{9.}~~ 8. “Mortgage loan” has the meaning ascribed to it in NRS 319.110.

~~{10.}~~ 9. “Real property” has the meaning ascribed to it in NRS 319.120.

~~{11.}~~ 10. “Residential housing” has the meaning ascribed to it in NRS 319.130.

~~{12.}~~ 11. “Person with special needs” means a person identified by the division as needing assistance to obtain affordable or specialty housing.

~~{13.}~~ 12. “Specialty housing” means housing that is designated for a specific segment of the population by the division.

Sec. 6. NAC 319.032 is hereby amended to read as follows:

319.032 1. The committee shall:

(a) Advise the administrator on ~~[the investment of money or issuance]~~ :

(1) The issuance of obligations;

(2) The development of new programs and the improvement of existing programs;

(3) The account for low-income housing created by NRS 319.500;

(4) The budget of the division; and

(5) Recent statutory changes that affect the division.

(b) ~~[Designate a chairman from among its members.]~~ *Make recommendations for proposed legislation.*

2. ~~[Three]~~ *Five* members of the committee constitute a quorum.

3. A meeting of the committee may be conducted by using a telephone conference call.

Sec. 7. NAC 319.034 is hereby amended to read as follows:

319.034 1. The ~~[administrator will appoint the]~~ *director of the department of business and industry shall appoint:*

(a) The eight members of the committee *that he is authorized to appoint pursuant to NRS 319.173* from a list of names submitted to him by the organizations represented ~~[~~

~~—2.—~~ ~~The administrator will appoint a]~~ ;

(b) A member within 90 days after a vacancy occurs ~~[~~

~~—3.]~~ ; and

(c) A chairman from among the members of the committee.

2. The term of office of each *appointed* member is ~~[2]~~ *3* years , and each *appointed* member serves without compensation.

3. *The terms of office of appointed members must be staggered.*

4. *Each appointed member may serve no more than two full terms. No appointed member may serve more than a total of 6 years on the committee.*

Sec. 8. NAC 319.036 is hereby amended to read as follows:

319.036 1. The administrator will prepare a written agenda for each meeting of the committee and ~~mail~~ *send* a copy of the agenda *by mail, facsimile machine or electronic mail* to each member to allow sufficient time for each member to review the agenda before the meeting.

2. No member of the committee may vote by proxy or designate an alternate to represent him at a meeting.

3. *As used in this section:*

(a) *“Electronic mail” has the meaning ascribed to it in NRS 41.715.*

(b) *“Facsimile machine” means a device that sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.*

Sec. 9. NAC 319.572 is hereby amended to read as follows:

319.572 As used in NAC 319.572 to ~~319.596,~~ *319.594*, inclusive, *and section 2 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 319.574, 319.576 and 319.578 *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 10. NAC 319.574 is hereby amended to read as follows:

319.574 “General reserve trust” means the trust created by the division for the benefit of the division *or an instrumentality of the division* and the owners of designated bonds and to:

FIRST
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SECTION

1. Provide money to pay the costs incurred in creating, developing, maintaining or carrying out programs ~~[of the division;]~~ *and projects;*
2. Pay, upon the approval of the administrator, the principal or interest or redemption premium, if any, on designated bonds specified by the division if no other money is available for those payments; and
3. Provide money for the general operating expenses of the division ~~[.]~~; *and*
4. *Provide money for loans, grants, services and commitments for loans, grants and services from the division that assist the division in exercising its powers and carrying out its duties and objectives as set forth in chapter 319 of NRS.*

SECOND
PARALLEL
SECTION

Sec. 11. NAC 319.574 is hereby amended to read as follows:

319.574 “General reserve trust” means the trust created by the division for the benefit of the division ~~[or an instrumentality of the division]~~ and the owners of designated bonds and to:

1. Provide money to pay the costs incurred in creating, developing, maintaining or carrying out ~~[programs and]~~ projects;
2. Pay, upon the approval of the administrator, the principal or interest or redemption premium, if any, on designated bonds specified by the division if no other money is available for those payments; and
3. Provide money for the general operating expenses of the division; and
4. Provide money for loans, grants, services and commitments for loans, grants and services from the division that assist the division in exercising its powers and carrying out its duties and objectives as set forth in chapter 319 of NRS.

Sec. 12. NAC 319.576 is hereby amended to read as follows:

319.576 “Project” means a housing facility for residential use which consists of two or more dwelling units for occupancy by eligible tenants on a rental basis. ~~[The term includes real property leased for sites for mobile homes, whether or not the division finances the purchase of the mobile home.]~~

FIRST
PARALLEL
SECTION

Sec. 13. NAC 319.578 is hereby amended to read as follows:

319.578 “Residential use” means the use of ~~[each]~~ :

1. *Each* unit in a project ; *or*
2. *Affordable housing or housing for persons with special needs provided pursuant to a program,*

FLUSH

as the principal residence of the tenant but not as a vacation or second home ~~[;]~~ *or place of business.*

SECOND
PARALLEL
SECTION

Sec. 14. NAC 319.578 is hereby amended to read as follows:

319.578 “Residential use” means the use of ~~[;~~

- ~~—1. ~~Each]~~ *each* unit in a project ~~[; or~~~~
- ~~—2. ~~Affordable housing or housing for persons with special needs provided pursuant to a program.]~~ as the principal residence of the tenant but not as a vacation or second home or place of business.~~

FIRST
PARALLEL
SECTION

Sec. 15. NAC 319.580 is hereby amended to read as follows:

319.580 ~~[;]~~ At least once each year, the administrator will determine the amount available in the general reserve trust to finance *or create a program* or project ~~[;~~

- ~~—2. The administrator will, after determining the amount of money available, distribute a notice within this state. The notice must:~~
- ~~—(a) Describe the type of project which will be eligible to receive money from the division;~~

~~—(b) Include a statement of the amount of money available in the general reserve trust to finance a project; and~~

~~—(c) State a final date for the submission to the division of an application for money for a project.]~~ *after first determining the ongoing obligations of the division for budgeting and debt service that are secured by the existing money in the general reserve trust.*

SECOND
PARALLEL
SECTION

Sec. 16. NAC 319.580 is hereby amended to read as follows:

319.580 At least once each year, the administrator will determine the amount available in the general reserve trust to finance or create a ~~[program or]~~ project after first determining the ongoing obligations of the division for budgeting and debt service that are secured by the existing money in the general reserve trust.

FIRST
PARALLEL
SECTION

Sec. 17. NAC 319.584 is hereby amended to read as follows:

319.584 1. ~~[A]~~ *To apply for a loan, grant, service or commitment for a loan, grant or service from the division for a program or project, a* completed application must be submitted to the division ~~[not later than the final date for the submission stated in the notice required by subsection 2 of NAC 319.580. Each]~~ *or an instrumentality of the division, as applicable.*

2. *Any* application submitted by a sponsor organized for profit must be accompanied by a nonrefundable fee of ~~[\$500.~~

~~—2.] \$1,250.~~

3. The division will approve or disapprove an application for ~~[money within 60]~~ *a loan, grant, service or commitment for a loan, grant or service from the division within 90* days after it receives the application. If the application is approved, the division will award a commitment letter to the sponsor of the project.

~~[3.]~~ 4. The division will determine the terms and conditions of each loan , *grant, service or commitment for a loan, grant or service that* it approves.

~~[4.—The sponsor shall pay to the division a fee of not more than 2 percent of the mortgage loan upon the closing of the loan.]~~ *Such terms and conditions must be consistent with accepted banking and risk analysis principles.*

SECOND
PARALLEL
SECTION

Sec. 18. NAC 319.584 is hereby amended to read as follows:

319.584 1. To apply for a loan, grant, service or commitment for a loan, grant or service from the division for a ~~[program or]~~ project, a completed application must be submitted to the division . ~~[or an instrumentality of the division, as applicable.]~~

2. Any application submitted by a sponsor organized for profit must be accompanied by a nonrefundable fee of \$1,250.

3. The division will approve or disapprove an application for a loan, grant, service or commitment for a loan, grant or service from the division within 90 days after it receives the application. If the application is approved, the division will award a commitment letter to the sponsor of the project.

4. The division will determine the terms and conditions of each loan, grant, service or commitment for a loan, grant or service that it approves. Such terms and conditions must be consistent with accepted banking and risk analysis principles.

FIRST
PARALLEL
SECTION

Sec. 19. NAC 319.586 is hereby amended to read as follows:

319.586 ~~[The division may, in determining which projects]~~ *In determining whether a program or project will receive [money] a loan, grant, service or commitment for a loan, grant or service* from the division, ~~[consider whether:~~

~~—1.—The proposed project is located in a rural or unincorporated area of the state.~~

~~—2.— There is a shortage of low-cost housing available in the area where the proposed project is located.~~

~~—3.— The proposed rents for the proposed project are affordable for low-income tenants.~~

~~—4.— The proposed rents and building costs of the proposed project are competitive with other existing multiple-unit housing in the area where the project is located.~~

~~—5.— The proposed project would not be financially feasible if it were financed by a private lender at the prevailing rate of interest with normal terms and conditions.~~

~~—6.— The proposed project will consist of more than 24 units.]~~ *the division will use the criteria set forth in NAC 319.710.*

SECOND
PARALLEL
SECTION

Sec. 20. NAC 319.586 is hereby amended to read as follows:

319.586 In determining whether a ~~[program or]~~ project will receive a loan, grant, service or commitment for a loan, grant or service from the division, the division will use the criteria set forth in NAC 319.710.

Sec. 21. NAC 319.588 is hereby amended to read as follows:

319.588 1. The division *or an instrumentality of the division* may make a loan for:

(a) The interim financing of *a program or* the development, construction or rehabilitation of a project;

(b) The permanent financing of a *program or* project; or

(c) The interim and permanent financing of a *program or* project.

2. Except as otherwise provided in subsection 3, each loan must be:

(a) Fully insured by a private source of mortgage insurance which is licensed to do business in this state or any other guarantee acceptable to the division; and

(b) Secured by a deed of trust on a project in this state.

3. The division may accept a partial guarantee of not less than 10 percent of the face value of a loan, if:

- (a) The loan is to finance a project in a rural area of this state;
- (b) It determines that there is a shortage of available low-cost housing in the area;
- (c) It determines that there is a shortage of private lenders willing to finance projects in the area;

- (d) It is the beneficiary of a first deed of trust on the project; and
- (e) It is the assignee of rents on the project.

Sec. 22. NAC 319.590 is hereby amended to read as follows:

319.590 1. Before the initial closing of a loan made pursuant to NAC 319.588, the sponsor must execute any documents which the division deems necessary or appropriate to regulate the acquisition, development, construction or rehabilitation of the proposed project and the operations of the sponsor in order to carry out the duties and protect the interests of the division.

2. A loan may not be assigned or sold without the prior written approval of the division.

3. The sponsor shall pay to the division a fee in an amount equal to ~~one~~ 1 percent of the unpaid principal balance of the loan upon the execution of an agreement for the sale or assumption of the loan.

FIRST
PARALLEL
SECTION

Sec. 23. NAC 319.592 is hereby amended to read as follows:

319.592 ~~1.~~ Each unit in any approved project *and the affordable housing or housing for persons with special needs provided pursuant to a program* must be ~~leased~~ *made available* to low-income tenants *or persons with special needs* for a period of not less than ~~10 years.~~ ~~—2.—The sponsor of an approved project must comply with the procedures and requirements set forth in the Developer’s Handbook.] 30 years.~~

SECOND
PARALLEL
SECTION

Sec. 24. NAC 319.592 is hereby amended to read as follows:

319.592 Each unit in any approved project ~~[and the affordable housing or housing for persons with special needs provided pursuant to a program]~~ must be made available to low-income tenants ~~[or persons with special needs]~~ for a period of not less than 30 years.

FIRST
PARALLEL
SECTION

Sec. 25. NAC 319.594 is hereby amended to read as follows:

319.594 1. All the sponsor's books, accounts and records relating to the *program or project* must be available for inspection by representatives of the division *or instrumentality of the division that provided the loan, grant, service or commitment for a loan, grant or service to the sponsor* during normal business hours.

2. The division *or instrumentality of the division that provided the loan, grant, service or commitment for a loan, grant or service to the sponsor* may conduct such examinations of the books, accounts and records *of the sponsor* as it deems necessary or appropriate to determine compliance with the provisions of this ~~[regulation]~~ *section* and may require the sponsor to pay the cost of the examination.

SECOND
PARALLEL
SECTION

Sec. 26. NAC 319.594 is hereby amended to read as follows:

319.594 1. All the sponsor's books, accounts and records relating to the ~~[program or]~~ project must be available for inspection by representatives of the division ~~[or instrumentality of the division that provided the loan, grant, service or commitment for a loan, grant or service to the sponsor]~~ during normal business hours.

2. The division ~~[or instrumentality of the division that provided the loan, grant, service or commitment for a loan, grant or service to the sponsor]~~ may conduct such examinations of the books, accounts and records of the sponsor as it deems necessary or appropriate to determine

compliance with the provisions of this section and may require the sponsor to pay the cost of the examination.

Sec. 27. NAC 319.725 is hereby amended to read as follows:

319.725 ~~{1.}~~ If a project is sponsored by a partnership which:

~~{(a)}~~ **1.** Has more than 10 partners; or

~~{(b)}~~ **2.** Is a limited partnership,

FLUSH the project must be financed by a mortgage loan which is insured, guaranteed or subsidized by the United States or a governmental agency or instrumentality thereof.

~~{2. This section does not prohibit such a partnership from obtaining a new mortgage loan for residential housing from a lending institution which has been awarded a loan pursuant to NAC 319.050 to 319.280, inclusive.}~~

Sec. 28. NAC 319.850 is hereby amended to read as follows:

319.850 As used in NAC 319.850 to 319.872, inclusive, unless the context otherwise requires:

1. ~~{“Developer” means any entity or person who develops eligible housing, including a public housing authority and a private business entity.~~

~~—2.} “Eligible housing” means structures for residential use by eligible families as defined in NRS 319.060 {The term includes a mobile home park which contains such structures.~~

~~—3.} and for use by persons with special needs.~~

2. “Residential use” means the use of a structure as the principal residence of the occupant and not as a recreational home or property for investment in a trade or business. Any portion of the structure designed or used for any purpose other than as a principal residence must not exceed 15 percent of the usable area of the structure.

3. *“Sponsor” means a person or entity which develops eligible housing, including, without limitation, a nonprofit organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and a development corporation that provides affordable or specialty housing in this state.*

FIRST
PARALLEL
SECTION

Sec. 29. NAC 319.852 is hereby amended to read as follows:

319.852 NAC 319.850 to 319.872, inclusive, are adopted to effectuate the general purposes of chapter 319 of NRS and the specific purposes of ~~NRS 319.175.~~ *paragraphs (k) and (m) of subsection 3 of NRS 319.140 and 319.190.*

SECOND
PARALLEL
SECTION

Sec. 30. NAC 319.852 is hereby amended to read as follows:

319.852 NAC 319.850 to 319.872, inclusive, are adopted to effectuate the general purposes of chapter 319 of NRS and the specific purposes of ~~paragraphs (k) and (m) of subsection 3 of NRS 319.140 and~~ *NRS 319.175 and* 319.190.

FIRST
PARALLEL
SECTION

Sec. 31. NAC 319.854 is hereby amended to read as follows:

319.854 1. Before the division *or an instrumentality of the division* acquires land, the administrator will invite ~~developers~~ *sponsors* to apply to purchase the land from the division *or instrumentality of the division* for the development of eligible housing.

2. An applicant must submit to the division:

(a) A fee of ~~[\$100.]~~ *\$300.*

(b) A description of the proposed housing which includes , *without limitation*, the number and type of dwelling units, the proposed selling or rental prices, and the *amenities*, equipment and utilities to be included.

(c) The applicable zoning laws and ~~what the developer~~ *the manner in which the sponsor* proposes to ~~do to~~ comply with those laws.

(d) The estimated cost of the development, including , *without limitation*, estimates of:

- (1) The cost of construction;
- (2) Architectural, legal and other fees;
- (3) Financing and carrying charges;
- (4) The cost of the land; and
- (5) The ~~developer's~~ *sponsor's* profit.

(e) The identity of the ~~developer,~~ *sponsor*, builder, architect and managing agent and a detailed description of their respective qualifications and their prior participation and experience in developing and operating eligible housing. If any of them is not a natural person, the applicant must submit the names of all shareholders, investors, officers and other persons having an interest in the entity.

(f) A report of the study which was conducted to determine the feasibility of the project.

(g) A plot of the site, including its dimensions, unusual contours or features on the surface and the proposed locations for housing units and improvements.

(h) Plans of the interior and basic elevational plans of the housing units containing a description of the basic materials for finishing the exterior of the building, including the siding, roof and trim.

SECOND
PARALLEL
SECTION

Sec. 32. NAC 319.854 is hereby amended to read as follows:

319.854 1. Before the division ~~for an instrumentality of the division~~ acquires land, the administrator will invite sponsors to apply to purchase the land from the division ~~for instrumentality of the division~~ for the development of eligible housing.

2. An applicant must submit to the division:

- (a) A fee of \$300.

(b) A description of the proposed housing which includes, without limitation, the number and type of dwelling units, the proposed selling or rental prices, and the amenities, equipment and utilities to be included.

(c) The applicable zoning laws and the manner in which the sponsor proposes to comply with those laws.

(d) The estimated cost of the development, including, without limitation, estimates of:

- (1) The cost of construction;
- (2) Architectural, legal and other fees;
- (3) Financing and carrying charges;
- (4) The cost of the land; and
- (5) The sponsor's profit.

(e) The identity of the sponsor, builder, architect and managing agent and a detailed description of their respective qualifications and their prior participation and experience in developing and operating eligible housing. If any of them is not a natural person, the applicant must submit the names of all shareholders, investors, officers and other persons having an interest in the entity.

(f) A report of the study which was conducted to determine the feasibility of the project.

(g) A plot of the site, including its dimensions, unusual contours or features on the surface and the proposed locations for housing units and improvements.

(h) Plans of the interior and basic elevational plans of the housing units containing a description of the basic materials for finishing the exterior of the building, including the siding, roof and trim.

319.856 1. A ~~{developer}~~ *sponsor* may not condition an application to purchase land upon receiving financing for eligible housing from the division ~~{}~~ *or an instrumentality of the division.*

2. The ~~{developer}~~ *sponsor* may apply for financing from the division *or an instrumentality of the division* under a separate program and, if approved, use such financing in the calculations required by paragraph (d) of subsection 2 of NAC 319.854. The ~~{division's}~~ invitation *of the division or an instrumentality of the division* to submit a proposal does not imply that the division *or instrumentality of the division* will finance eligible housing under any other program.

SECOND
PARALLEL
SECTION

Sec. 34. NAC 319.856 is hereby amended to read as follows:

319.856 1. A sponsor may not condition an application to purchase land upon receiving financing for eligible housing from the division . ~~{or an instrumentality of the division.}~~

2. The sponsor may apply for financing from the division ~~{or an instrumentality of the division}~~ under a separate program and, if approved, use such financing in the calculations required by paragraph (d) of subsection 2 of NAC 319.854. The invitation of the division ~~{or an instrumentality of the division}~~ to submit a proposal does not imply that the division ~~{or instrumentality of the division}~~ will finance eligible housing under any other program.

Sec. 35. NAC 319.858 is hereby amended to read as follows:

319.858 The administrator will accept applications which contain proposals to develop housing that is within the limitations ~~{or}~~ *of* the selling or rental prices established by the division and which will be affordable ~~{by}~~ *to* eligible families.

FIRST
PARALLEL
SECTION

Sec. 36. NAC 319.860 is hereby amended to read as follows:

319.860 1. The administrator will not include in his determination of the sales price of land *any* expenses which are incurred by the division *or an instrumentality of the division* in acquiring and conveying land and which are covered by application fees.

2. The division *or an instrumentality of the division* will only acquire land for which it has accepted a ~~[developer's]~~ *sponsor's* application.

3. If the division *or an instrumentality of the division* is unsuccessful in acquiring a particular parcel, the administrator will return all application fees which have been submitted for the purchase of that parcel.

SECOND
PARALLEL
SECTION

Sec. 37. NAC 319.860 is hereby amended to read as follows:

319.860 1. The administrator will not include in his determination of the sales price of land any expenses which are incurred by the division ~~[or an instrumentality of the division]~~ in acquiring and conveying land and which are covered by application fees.

2. The division ~~[or an instrumentality of the division]~~ will only acquire land for which it has accepted a sponsor's application.

3. If the division ~~[or an instrumentality of the division]~~ is unsuccessful in acquiring a particular parcel, the administrator will return all application fees which have been submitted for the purchase of that parcel.

FIRST
PARALLEL
SECTION

Sec. 38. NAC 319.862 is hereby amended to read as follows:

319.862 The division *or an instrumentality of the division* will sell land to the ~~[developer]~~ *sponsor* who proposes the lowest price for the rental or sale of housing which is comparable to the prices proposed by other ~~[developers.]~~ *sponsors*.

SECOND
PARALLEL
SECTION

Sec. 39. NAC 319.862 is hereby amended to read as follows:

319.862 The division ~~[or an instrumentality of the division]~~ will sell land to the sponsor who proposes the lowest price for the rental or sale of housing which is comparable to the prices proposed by other sponsors.

Sec. 40. NAC 319.864 is hereby amended to read as follows:

319.864 1. The division *or an instrumentality of the division* will not sell land to a ~~[developer unless he:]~~ *sponsor unless the sponsor:*

(a) Executes and delivers to the division *or instrumentality of the division, as appropriate,* an agreement to:

(1) Begin construction on or before a date set by mutual agreement between the division and the ~~[developer:]~~ *sponsor;* and

(2) Reconvey the land to the division *or instrumentality of the division* at a price which does not exceed the sales price of the land charged by the division *or instrumentality of the division* to the ~~[developer]~~ *sponsor* if construction is not begun or completed as scheduled or within a reasonable time after it is scheduled to begin or to be completed.

(b) Arranges to pay for the land in full.

(c) Supplies a complete set of building plans to the division ~~[:]~~ *or instrumentality of the division.*

2. The sale of land by the division *or an instrumentality of the division* is subject to any conditions imposed by the governmental agency that sold the land to the division ~~[:]~~ *or instrumentality of the division.*

3. The ~~[developer]~~ *sponsor* must covenant in the contract of sale that he, his successors and his assigns will:

(a) Develop eligible housing on the land; and

(b) Use their best efforts to:

- (1) Rent the housing to families with low or moderate incomes; ~~{or}~~
- (2) Sell the housing to families with low or moderate incomes ~~{.}~~; *or*
- (3) Rent the housing to persons with special needs.*

Sec. 41. NAC 319.864 is hereby amended to read as follows:

319.864 1. The division ~~{or an instrumentality of the division}~~ will not sell land to a sponsor unless the sponsor:

(a) Executes and delivers to the division ~~{or instrumentality of the division, as appropriate,}~~ an agreement to:

(1) Begin construction on or before a date set by mutual agreement between the division and the sponsor; and

(2) Reconvey the land to the division ~~{or instrumentality of the division}~~ at a price which does not exceed the sales price of the land charged by the division ~~{or instrumentality of the division}~~ to the sponsor if construction is not begun or completed as scheduled or within a reasonable time after it is scheduled to begin or to be completed.

(b) Arranges to pay for the land in full.

(c) Supplies a complete set of building plans to the division . ~~{or instrumentality of the division.}~~

2. The sale of land by the division ~~{or an instrumentality of the division}~~ is subject to any conditions imposed by the governmental agency that sold the land to the division . ~~{or instrumentality of the division.}~~

3. The sponsor must covenant in the contract of sale that he, his successors and his assigns will:

- (a) Develop eligible housing on the land; and
- (b) Use their best efforts to:
 - (1) Rent the housing to families with low or moderate incomes;
 - (2) Sell the housing to families with low or moderate incomes; or
 - (3) Rent the housing to persons with special needs.

Sec. 42. NAC 319.866 is hereby amended to read as follows:

319.866 The administrator will establish standards to determine the selling and rental prices of eligible housing and the maximum levels of income and other requirements for eligible families *or persons with special needs* in accordance with the criteria established in the programs administered by the division pursuant to NAC 319.300 to 319.489, inclusive, and loans for projects made pursuant to NAC 319.600 to 319.790, inclusive.

Sec. 43. NAC 319.868 is hereby amended to read as follows:

319.868 The administrator will conduct such examination of the books and records of each ~~developer~~ *sponsor* who has acquired land from the division as the administrator deems necessary or appropriate to determine compliance with the provisions of chapter 319 of NRS, NAC 319.850 to 319.872, inclusive, and any agreement between the division and the ~~developer~~ *sponsor*.

Sec. 44. NAC 319.870 is hereby amended to read as follows:

319.870 Each contract for the sale of land must require the ~~developer~~ *sponsor* to consent to the jurisdiction of the district courts of this state in any proceeding to enforce compliance with the provisions of chapter 319 of NRS, NAC 319.850 to 319.872, inclusive, and any agreements between the division and the ~~developer~~ *sponsor*.

Sec. 45. NAC 319.872 is hereby amended to read as follows:

319.872 A ~~[developer]~~ *sponsor* or any “related person” as defined in 26 U.S.C. § 147 shall not purchase obligations of the division in an amount related to the aggregate amount of the principal of the obligations which the division has acquired from the ~~[developer.]~~ *sponsor*.

Sec. 46. NAC 319.040, 319.042, 319.044, 319.046, 319.050, 349.060, 319.070, 319.090, 319.100, 319.110, 319.130, 319.140, 319.150, 319.160, 319.180, 319.190, 319.200, 319.210, 319.220, 319.230, 319.240, 319.250, 319.260, 319.270, 319.280, 319.582 and 319.596 are hereby repealed.

Sec. 47. The administrator of the housing division of the department of business and industry will not reappoint a member of the advisory committee on housing to the advisory committee if he has served at least 6 years in office.

Sec. 48. 1. This section and sections 1 to 4, inclusive, 6 to 10, inclusive, 12, 13, 15, 17, 19, 21, 22, 23, 25, 27, 28, 29, 31, 33, 35, 36, 38, 40 and 42 to 47, inclusive, of this regulation become effective upon filing with the secretary of state.

2. Sections 2, 3, 4, 9, 10, 13, 15, 17, 19, 21, 23, 25, 29, 31, 33, 36, 38 and 40 of this regulation expire by limitation on June 30, 2003.

3. Sections 5, 11, 14, 16, 18, 20, 24, 26, 30, 32, 34, 37, 39 and 41 of this regulation become effective on July 1, 2003.

TEXT OF REPEALED SECTIONS

319.040 “Committee” defined. As used in NAC 319.040 to 319.046, inclusive, unless the context otherwise requires, “committee” means the advisory committee for the financing of housing.

319.042 Creation; appointment of members; term of office.

1. The advisory committee for the financing of housing, consisting of nine members, is hereby created.

2. The administrator will appoint from a list of names submitted to him by the various organizations representing real estate, construction and financial institutions:

(a) Three members representing real estate boards or associations.

(b) Three members representing commercial and residential builders.

(c) Three members representing financial institutions.

3. The term of office of each member of the committee is 2 years.

319.044 Designation of chairman; meetings; quorum.

1. The committee shall designate a chairman from among its members.

2. The committee may meet at such times and places as specified by a call of the chairman or majority vote of the committee.

3. Five members of the committee constitute a quorum.

319.046 Powers. The committee may:

1. Provide to the division information, advice and recommendations concerning the problems and developments in the financing of housing and their effect on real estate, construction and financial institutions, except for those matters within the jurisdiction of the advisory committee on housing created pursuant to NRS 319.173.
2. Recommend proposed legislation.

319.050 Definitions. As used in NAC 319.050 to 319.280, inclusive, unless the context otherwise requires, the words and terms defined in NAC 319.060 to 319.190, inclusive, have the meanings ascribed to them in those sections.

319.060 “Collateral” defined. “Collateral” includes:

1. Direct obligations of, or obligations guaranteed by, the United States of America;
2. Obligations of the Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Federal Home Loan Mortgage Corporation, Export-Import Bank of the United States, Federal Land Banks, Federal National Mortgage Association or Government National Mortgage Association;
3. Direct and general obligations of the state;
4. Direct and general obligations of any other state which is rated in the two highest categories by two nationally recognized rating agencies and which have an established national market;
5. Mortgages insured by the Federal Housing Administration or guaranteed by the Veterans’ Administration, or other mortgages insured or guaranteed by the United States of America or an instrumentality thereof as to payment of principal and interest;

6. Mortgages on dwellings designed to accommodate not more than four families insured by an insurance company licensed to do business in the state in the manner and amount and on terms and conditions as approved by the division;

7. Other mortgages on dwellings designed to accommodate not more than four families, the unpaid principal amount of which does not exceed 80 percent of the market value of property securing the mortgage loan;

8. Proceeds of any of the above;

9. Irrevocable letter of credit which is in a form acceptable to the division and from a bank which is approved by the division; and

10. Money.

319.070 “Collateral agreement” defined. “Collateral agreement” means the agreement between the division and a lending institution pursuant to which the lending institution pledges and assigns to the division, and agrees to maintain, collateral to secure repayment of its loan.

319.090 “Eligible families” defined. “Eligible families” means persons and families whose income does not exceed the maximum levels of income established by the division and other requirements established pursuant to chapter 319 of NRS and the Internal Revenue Code of 1986, as amended.

319.100 “Family” defined. “Family” means a person or a group of persons consisting of, but not limited to, the head of a household and any related persons in the household who are allowable as personal exemptions for federal income tax purposes.

319.110 “Invitation” defined. “Invitation” means the division’s current invitation to lending institutions for applications for loans.

319.130 “Loan agreement” defined. “Loan agreement” means the agreement between the division and the lending institution pursuant to which the division agrees to make loans to the lending institution from time to time on the terms and conditions set forth in the agreement.

319.140 “Loan application” defined. “Loan application” means an application filed by the lending institution with the division in response to an invitation.

319.150 “Multiple-unit dwelling” defined.

1. “Multiple-unit dwelling” means a structure or structures designed primarily for residential use and consisting of dwelling units for more than one family, or the land on which the structure or structures are located or are to be constructed.
2. The term includes condominiums.

319.160 “New mortgage loan” defined.

1. “New mortgage loan” means an interest-bearing obligation which is secured by a mortgage, mortgage deed, deed of trust or other instrument creating a lien on real property, or an interest therein, located within the state and which is made by a lending institution to finance the acquisition, construction or rehabilitation of a single-family or multiple-unit dwelling for occupancy by eligible families as their principal residences.
2. The term does not include the refinancing, directly or indirectly, of an existing mortgage loan for the present mortgagor of the mortgage loan.

319.180 “Residential use” defined. “Residential use” means use of the structure or unit as the principal residence of the eligible family and does not include use as a recreational home or property for investment in a trade or business. Portions of the structure designed or used for

any purpose other than as a principal residence must not exceed 15 percent of the usable area of the structure or unit.

319.190 “Single-family dwelling” defined.

1. “Single-family dwelling” means a structure and the real estate upon which it is located, or is to be constructed, designed for residential use by one family.

2. The term includes condominiums, townhouses and mobile homes financed as real property.

319.200 Applications for loans.

1. The division will from time to time mail an invitation to a lending institution to apply for a loan. An invitation will be mailed, with a form for a loan application, to the lending institution at least 14 days before the loan application must be submitted to the division.

2. The loan application is subject to the provisions of the invitation and must include:

(a) The maximum amount of loan requested;

(b) Information regarding the lending institution’s total assets, capital, net worth, income and reserves as of its most recently available report;

(c) Information regarding the aggregate principal amount of residential mortgage loans made by the lending institution in the state during the 24 months preceding the date specified in the loan application, and the increase, if any, in the amount of mortgage loans made during the second 12 months of the period compared with the first 12 months of the period;

(d) Information relating to the lending institution’s experience in making residential mortgage loans, including the number of rent subsidized loans made by the lending institution which are insured by the United States Department of Housing and Urban Development, the

experience of its department of construction control, its managerial experience, and a resume of the multiple-unit projects financed by the lending institution or in which it has participated; and

(e) The unconditional agreement of the lending institution to make mortgage loans which comply with the terms of the notice of award if the loan is awarded by the division.

3. The division will inform applicants of:

(a) The date by which the application for a loan is due and the latest date by which the division will award a loan;

(b) The basic terms and conditions of the application and the documents which must be executed and accompany the application; and

(c) The schedule of any fees which must accompany the application.

319.210 Allocation of loans.

1. In allocating money for loans among lending institutions which have submitted applications for loans, the division will consider whether each lending institution:

(a) Has a net worth of at least \$500,000;

(b) Is qualified to do business in this state;

(c) Is licensed, if licensing is required by law;

(d) Is authorized to commence business under a certificate issued by the administrator of financial institutions, if required by law; and

(e) Is in good standing with the federal, state or local regulatory agency having jurisdiction, if any.

2. In making the allocations, the division will also consider:

(a) The financial condition of each lending institution which has submitted an application.

(b) The amount of mortgage loans for single-family or multiple-unit dwellings which were made in this state during the past 24 months by each applicant.

(c) The amount of federally insured or guaranteed and privately insured mortgage loans for single-family or multiple-unit dwellings which were made in this state during the past 24 months by each applicant.

(d) The location and number of offices, if any, which each applicant has within this state.

(e) The percentage of newly constructed or existing structures which each applicant proposes to finance with the loan.

(f) The amount of the loan requested by each applicant compared with the total amount of the loans requested by all the applicants.

(g) The extent of previous participation, if any, of each applicant in the division's programs.

(h) The number and location of the lending institutions needed to operate the division's programs efficiently in areas of the state which are deficient in adequate housing.

3. The minimum statewide loan to each lending institution is \$500,000.

4. The division's allocation of money for loans is final.

319.220 Award and terms of loans.

1. The division will notify each lending institution by mail of the amount of a loan, if any, awarded to it. The lending institution must accept the loan in accordance with the terms of the notice.

2. The obligation of the division to make a loan is subject to the issuance and sale of a sufficient amount of bonds or other obligations of the division by the date on which the application for the loan expires. The amount of the loan which is awarded to any lending institution will not exceed the maximum amount requested and may be a lesser amount.

3. The notice of award will state the terms of the division's loan to the lending institution, including:

(a) The maximum rate of interest, the term, the percentage of the principal to be paid each year or the manner of determining the payment of the principal, and the terms and conditions, if any, on which the loan may be prepaid.

(b) The schedule of any fees, charges and penalties of the division with respect to the loan.

(c) A provision for liquidated damages if the lending institution does not accept the loan.

(d) The terms and conditions of the regulatory agreement to be executed by the owner of any multiple-unit dwelling which is to be financed by the lending institution through the loan.

(e) A statement that the proceeds of the loan must be deposited in a trust account of which the division is the designated beneficiary.

(f) A statement that the lending institution must make and disburse new mortgage loans in an aggregate principal amount which is equal to or greater than the amount of loan proceeds specified by the division. The division will designate that the new mortgage loans be made by:

(1) Calendar quarters;

(2) Geographic areas;

(3) Percentages of newly constructed or existing structures; or

(4) A combination of these methods.

(g) The term of each new mortgage loan to be made by the lending institution.

(h) A statement that each new mortgage loan must be made pursuant to a written commitment issued after the date on which the lending institution submitted its loan application, unless otherwise expressly approved in writing by the division, and must meet all governmental and other requirements applicable to the lending institution.

(i) The times and manner in which the lending institution must report to the division concerning the commitment and disbursement of the proceeds of the loan.

(j) The penalty, equal to a specified percentage per month of the uncommitted and undisbursed balance of the proceeds of the loan, which may be assessed and collected if a new mortgage loan is not made and disbursed by designated calendar quarters.

319.230 Yield on loans.

1. Loans made to lending institutions must bear interest at a rate which produces a yield on the loans sufficient to:

(a) Pay interest on the related issue of the division's bonds or other obligations;

(b) Furnish adequate reserves for the holders of the division's bonds or other obligations whenever necessary;

(c) Cover the operating costs of the division; and

(d) Meet or exceed the minimum yield required by the general certificate or trust indenture governing the series of bonds.

2. The yield on loans must not exceed the maximum permitted by application of 26 U.S.C. §§ 141 to 149, inclusive, and applicable regulations of the United States Treasury Department.

319.240 Collateral for loans.

1. As a security for the payment of the principal and interest of each loan to a lending institution, collateral in an amount at least equal to the unpaid principal must be assigned to the division and maintained and serviced by the lending institution in accordance with the collateral agreement.

2. The collateral for each loan must be held in accordance with the provisions of chapter 319 of NRS and the collateral agreement.

3. The collateral will be valued by the division or a person or institution designated by the division at the times and in the manner provided in the collateral agreement.

319.250 Person prohibited from purchasing obligations of division. A lending institution, including any related person as defined in 26 U.S.C. § 147, shall not purchase the bonds or other obligations of the division in an amount related to the aggregate principal amount of the loan to the lending institution from the division.

319.260 Examination of books and records. The division may conduct an examination of the books and records of each lending institution which receives a loan from the division, as the division deems necessary or appropriate to determine compliance with the provisions of chapter 319 of NRS, NAC 319.050 to 319.280, inclusive, the collateral agreement and the loan agreement and may require each lending institution to pay the cost of the examination.

319.270 Consent to jurisdiction of district courts. Each loan agreement must require the lending institution to consent to the jurisdiction of the district courts of this state in any proceedings to enforce compliance with the provisions of chapter 319 of NRS, NAC 319.050 to 319.280, inclusive, the collateral agreement and the loan agreement.

319.280 Determination of family's eligibility for loan.

1. The division determines the maximum levels of income and other requirements for an eligible family. In making a determination, the division will consider:

- (a) The median income of the residents of each county in the state;
- (b) The requirements and standards, including maximum levels of income, of applicable federal and state statutes and regulations;
- (c) The family's verified gross income, including:

- (1) Salary or wages;
 - (2) Income from overtime;
 - (3) Tips;
 - (4) Income from part-time employment;
 - (5) Bonuses;
 - (6) Dividends;
 - (7) Interest;
 - (8) Royalties;
 - (9) Pensions;
 - (10) Compensation received from the Veterans' Administration;
 - (11) Net rental income;
 - (12) Alimony;
 - (13) Payments for child support;
 - (14) Public assistance;
 - (15) Compensation for disability;
 - (16) Payments received from social security;
 - (17) Compensation for unemployment;
 - (18) Military allowances;
 - (19) Income received from business activities or investments; and
 - (20) Income received from trusts;
- (d) Total assets available to the family, not to exceed 50 percent of the selling price of the residence which is being purchased;

(e) Whether the family is able to obtain a mortgage loan for decent, safe and sanitary housing without the aid of the division;

(f) The size of the family;

(g) Whether any member of the family is a veteran;

(h) The ratio of the family's expenses to its income;

(i) The family's credit rating; and

(j) The stability of the family's employment.

2. No family may obtain more than one loan through the division's program.

3. The division determines the maximum price of single-family dwellings which may be financed through this program. In making the determination, the division will consider:

(a) The maximum loan which is allowable under current federal regulations or under private mortgage insurance; and

(b) The number, cost and condition of residences which are currently for sale.

319.582 Handbook of procedures and requirements; obtaining handbook and application forms.

1. The division will publish and periodically update a Developer's Handbook which must describe in detail the procedures and requirements concerning projects which are prescribed by the division.

2. A copy of the handbook and application forms may be obtained by submitting a written request to the division.

319.596 Consent to jurisdiction of district courts. Each agreement made pursuant to the provisions of NAC 319.572 to 319.596, inclusive, must require the sponsor to consent to the

jurisdiction of the district courts of this state in any proceeding to enforce compliance with the provisions of NAC 319.572 to 319.596, inclusive, and chapter 319 of NRS.