

NEBRASKA ADMINISTRATIVE CODE

TITLE 442, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

TAX EQUALIZATION AND REVIEW COMMISSION

ENABLING AUTHORITY

Issue Date: 09/03/96
Prior Revision Date: 12/29/03
Effective Date: 01/03/07

NEBRASKA ADMINISTRATIVE CODE

TITLE 442 — TAX EQUALIZATION AND REVIEW COMMISSION

CHAPTER 1 — ENABLING AUTHORITY

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CHAPTER 1 — ENABLING AUTHORITY

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NEBRASKA ADMINISTRATIVE CODE

Title 442 — Tax Equalization and Review Commission Chapter 1

CHAPTER 1 ENABLING AUTHORITY

001 General Provisions.

001.01 Constitutional Authority. The Tax Equalization and Review Commission has the power to review and equalize assessments of property for taxation within the state and has such other powers and performs such other duties as the Legislature may provide. Neb. Const. Art. IV, §28.

001.02 Enabling Legislation. The Tax Equalization and Review Commission may adopt and promulgate rules and regulations to carry out its constitutional or statutory purposes, powers, or authority. The Commission may adopt and promulgate rules and regulations necessary to regulate persons and proceedings within the commission's jurisdiction and authority. Furthermore the Commission may adopt and promulgate necessary rules for discovery which are consistent with the Rules Adopted by the Supreme Court. Neb. Rev. Stat. §§ 25-1273.01, 77-5016, and 77-5021,

001.03 Accessibility to Rules and Regulations. The Commission shall cause its rules and regulations to be published in such manner as the agency shall determine to bring, as far as practicable, the existence and scope of the rules and regulations to the attention of all persons affected thereby. Neb. Rev. Stat. §84-903.

002 Limitations on Regulation Making Authority.

002.01 "The duties of the Attorney General shall be . . . To prepare and promulgate model rules of procedure appropriate for use by as many agencies as possible." Neb. Rev. Stat. §84-205(11).

002.02 “In addition to other requirements imposed by law: (1) Each agency shall adopt rules and regulations governing the formal and informal procedures prescribed or authorized by the Administrative Procedure Act. Such rules and regulations shall include rules of practice before the agency together with the forms and instructions, and, (2) To assist interested persons dealing with it, each agency shall so far as deemed practicable supplement its rules and regulations with descriptive statements of its procedures.” Neb. Rev. Stat. §84-909.

002.03 “In accordance with the rule making and regulation making requirements of the Administrative Procedure Act, the Attorney General shall prepare and promulgate model rules of procedure appropriate for use by as many agencies as possible and shall file the model rules with the Secretary of State. The model rules shall deal with all general functions and duties performed in common by several agencies. For rules of procedure adopted on or after August 1, 1994, each agency shall adopt as many of the model rules as is practicable under its circumstances. To the extent an agency adopts the model rules, it shall do so in accordance with the rule making and regulation making requirements of the act. Any agency adopting a rule of procedure that differs from the model rules shall include in the explanatory statement provided for in section 84-907.04 a finding stating the reasons why the relevant portions of the model rules were impracticable under the circumstances.” Neb. Rev. Stat. §84-909.01.

EXPLANATORY STATEMENT

The Commission hereby finds and determines that the Model Rules of Practice and Procedure for Hearings in Contested Cases prepared and promulgated by the Attorney General are inapplicable. This finding and determination of the Commission is based on Neb. Rev. Stat. §84-912.03, which provides that the Commission is exempt from Sections 84-913 through 84-919 of the Nebraska State Statutes. (§§84-913 - 84-919 govern contested hearings before state agencies, and appeals from the decisions made by agencies in those contested cases.) Neb. Rev. Stat. §§77-5001, et

seq., constitute the applicable statutes which govern hearings before the Tax Equalization and Review Commission. Since these statutes are unique to the Commission, the Model Rules adopted by the Attorney General, insofar as they apply to hearings in contested cases before the Commission, do not apply.

- 003 Severability Clause. If any clause, paragraph, subsection, section, or Chapter of these Rules and Regulations shall be held invalid, it shall be conclusively presumed that the Tax Equalization and Review Commission would have enacted the remainder of these regulations not directly related to such clause, paragraph, subsection, section or Chapter.
- 004 Construction. Unless a construction under this rule would be inconsistent with a manifest intent to the contrary these rules shall be construed in accordance with the following.
 - 004.01 The present tense of any verb includes the future, when applicable
 - 004.02 Gender when referring to either masculine or feminine includes the other and neuter.
 - 004.03 Singular words may extend and be applied to several persons or things as well as one person or thing.
 - 004.04 Plural words may extend and be applied to one person or thing as well as several persons or things.
 - 004.05 This rule and it's sections are not exclusive and the application of other rules or aids to construction are anticipated and may be required.