

SENATE BILL NO. 47—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF STATE LANDS
OF THE STATE DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to state lands.
(BDR 26-216)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

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

AN ACT relating to state lands; clarifying when an authorization from the State Land Registrar is required to perform work below the high water mark of a navigable river; requiring the State Land Registrar to establish by regulation fees for such authorization and for permits related to dredging, filling and installing certain structures; revising provisions relating to the accounting and use of the proceeds of certain fees for the use of state lands; eliminating the requirement that the State Land Registrar grant credit towards fees paid for the commercial use of state land; making various other changes relating to state lands; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources also serves as the ex officio State Land Registrar. (NRS 232.110) Existing law relating to the use of state lands uses the terms "Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar" and "State Land Registrar" interchangeably. **Sections 1-8** of this bill make technical changes so the term "State Land Registrar" is used in such provisions.

Existing law requires, with limited exceptions, a person to secure a permit from the State Land Registrar before performing any work below the high water mark of a navigable river. (NRS 322.1007) **Section 9** of this bill clarifies when



authorization from the State Land Registrar is required to proceed with such work and authorizes the State Land Registrar to adopt regulations related to performing such work.

Under existing law, the State Land Registrar is required to charge fees in certain amounts for: (1) dredging or filling; or (2) constructing or installing certain structures in a navigable body of water. (NRS 322.130) **Section 10** of this bill requires the State Land Registrar to establish the amount of these fees by regulation. **Section 12** of this bill provides that the existing fees remain in effect until the State Land Registrar establishes such fees by regulation.

Under existing law, the proceeds of certain fees for authorization to use certain state lands must be paid to the State General Fund. (NRS 322.160) **Section 11** of this bill provides that the proceeds of rents and royalties for authorization to use certain state lands must also be paid to the State General Fund.

Under existing law, the proceeds of certain fees relating to navigable bodies of water that are in excess of \$65,000 must be accounted for separately and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. (NRS 322.160) **Section 11** provides that such proceeds must be accounted for in an interest-bearing account and that the money in that account does not revert to the State General Fund at the end of the fiscal year.

Under existing law, the State Land Registrar charges a fee for a permit for the use of a pier or other related facility on a navigable body of water. (NRS 322.120) Existing law also requires the State Land Registrar to grant a credit towards the fee under certain circumstances. (NRS 322.125) **Section 13** of this bill eliminates the requirement for the State Land Registrar to grant such a credit.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 322.010 is hereby amended to read as follows:

322.010 Except as *otherwise* provided in NRS 334.070 and 504.147, the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[]~~ may lease any land except contract land now or hereafter owned by the State of Nevada, or which may hereafter be granted to it by the United States of America, upon terms as provided in NRS 322.020, 322.030 and 322.040.

Sec. 2. NRS 322.050 is hereby amended to read as follows:

322.050 Except as otherwise provided in NRS 334.070 and 504.147, the ~~[Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio]~~ State Land Registrar ~~[]~~ may, in addition to the authority to lease provided in NRS 322.010, 322.020 and 322.030, lease or grant easements over or upon any land now or hereafter owned by the State of Nevada, or which may hereafter be granted it by the United States of America, upon terms as provided in NRS 322.060. Leases or grants of easements over or upon contract lands may be made only with the consent of the contracting party, who must be paid all money received from any such lease or grant. Leases or grants of



easements over or upon any lands which are used by any office, department, board, commission, bureau, institution or other agency of the State of Nevada may be granted only with the concurrence of the agency.

Sec. 3. NRS 322.060 is hereby amended to read as follows:

322.060 Subject to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.061, 322.063, 322.065 and 322.067, for such term and consideration as the ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar ~~[]~~ may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

Sec. 4. NRS 322.061 is hereby amended to read as follows:

322.061 1. The ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar ~~[]~~ may lease state land pursuant to NRS 322.060 for less than the fair market value of the state land for the first year of the lease, including, without limitation, without the payment of rent for the first year of the lease, to a person who intends to locate or expand a business in this State if, except as otherwise provided in subsection 5, the business meets the requirements of subsection 4.

2. Before state land may be leased pursuant to this section, the following persons must approve the lease and establish the recommended amount of rent to be received for the state land:

(a) The ~~Administrator of the Division of State Lands, as ex officio~~ State Land Registrar;

(b) The Administrator of the State Public Works Division of the Department of Administration; and

(c) The Executive Director of the Office of Economic Development.

3. Any lease entered into pursuant to this section must be for a term of at least 10 years.

4. Except as otherwise provided in subsection 5, the lease or agreement may not include a discount to the business for the first year unless:



(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The business is registered pursuant to the laws of this State or the person who intends to locate or expand the business in this State commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(c) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.

(d) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security



1 Division of the Department of Employment, Training and
2 Rehabilitation on July 1 of each fiscal year and:

3 (I) The business will provide a health insurance plan for
4 all employees that includes an option for health insurance coverage
5 for dependents of the employees; and

6 (II) The benefits the business provides to its employees in
7 this State will meet the minimum requirements for benefits
8 established by the Office.

9 (e) If the business is an existing business, the business meets at
10 least two of the following requirements:

11 (1) The business will increase the number of employees on
12 its payroll by 10 percent more than it employed in the immediately
13 preceding fiscal year or by six employees, whichever is greater.

14 (2) The business will expand by making a capital investment
15 in this State in an amount equal to at least 20 percent of the value of
16 the tangible property possessed by the business in the immediately
17 preceding fiscal year. The determination of the value of the tangible
18 property possessed by the business in the immediately preceding
19 fiscal year must be made by the:

20 (I) County assessor of the county in which the business
21 will expand, if the business is locally assessed; or

22 (II) The Department of Taxation, if the business is
23 centrally assessed.

24 (3) The average hourly wage that will be paid by the existing
25 business to its new employees in this State is at least the amount of
26 the average hourly wage required to be paid by businesses pursuant
27 to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of
28 NRS 361.0687, whichever is applicable, and:

29 (I) The business will provide a health insurance plan for
30 all new employees that includes an option for health insurance
31 coverage for dependents of the employees; and

32 (II) The benefits the business provides to its new
33 employees in this State will meet the minimum requirements for
34 benefits established by the Office.

35 (f) In lieu of meeting the requirements of paragraph (c), (d) or
36 (e), if the business furthers the development and refinement of
37 intellectual property, a patent or a copyright into a commercial
38 product, the business meets at least two of the following
39 requirements:

40 (1) The business will have 10 or more full-time employees
41 on the payroll of the business by the fourth quarter that it is in
42 operation.

43 (2) Establishing the business will require the business to
44 make a capital investment of at least \$500,000 in this State.



(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The benefits the business provides to its employees in this State will meet with minimum requirements established by the Office.

5. The Executive Director of the Office of Economic Development may waive the requirements of subsection 4 for good cause shown if the lease is for state land of less than 25,000 square feet.

Sec. 5. NRS 322.063 is hereby amended to read as follows:

322.063 1. The ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar ~~[,]~~ may, pursuant to NRS 322.060, lease residential property owned by the State of Nevada for less than the fair market value of the property to an officer or employee of this State who is required as a condition of his or her employment to reside in residential property owned by this State.

2. Before residential property may be leased pursuant to this section, the State Land Registrar, in cooperation with the head of the state agency that manages the property, must approve the lease and determine the amount of rent for the lease of the property.

3. The State Land Registrar may waive any fee for the consideration of an application to lease property pursuant to this section.

Sec. 6. NRS 322.065 is hereby amended to read as follows:

322.065 1. Except as otherwise provided in this section, land may be leased pursuant to NRS 322.060 to:

(a) A nonprofit organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code and is affiliated by contract or other written agreement with an agency of this State; or

(b) A public educational institution,
under such terms and for such consideration as the ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar ~~[,]~~ determines reasonable based upon the costs and benefits to the State and the recommendation of the persons who approve the lease.



2. To lease property pursuant to this section, at least two of the following persons must approve the lease and establish the recommended amount of rent to be received for the property:

(a) The ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar.

(b) The Administrator of the State Public Works Division of the Department of Administration.

(c) The Director of the Department of Health and Human Services or a person designated by the Director.

➔ Such persons shall render a decision on an application to lease property pursuant to this section within 60 days after the application is filed with the ~~Administrator of the Division of State Lands.~~ *State Land Registrar.*

3. In determining the amount of rent for the lease of property pursuant to this section, consideration must be given to:

(a) The amount the lessee is able to pay;

(b) Whether the property will be used by the lessee to perform a service of value to members of the general public; and

(c) Whether the service to be performed on the property will be of assistance to any agency of this State.

4. The State Land Registrar may waive any fee for the consideration of an application submitted pursuant to this section.

5. The provisions of this section do not apply to property granted to the State by the Federal Government and held in trust by the State for educational purposes.

Sec. 7. NRS 322.067 is hereby amended to read as follows:

322.067 1. Upon the request of the governing body of a local government, the ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar ~~[.]~~ may grant an easement for a public road to the governing body without charging a fee if the governing body agrees to pay the actual costs incurred by the State Land Registrar in granting the easement.

2. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.

Sec. 8. NRS 322.075 is hereby amended to read as follows:

322.075 Unless the fee for the term or any portion of the term of a lease of land for grazing livestock is determined pursuant to NRS 322.060:

1. The fee for the term or any portion of the term of the lease must be based on the fair market value of the interest leased, but must not be less than:

(a) The minimum grazing fee determined pursuant to subsection 2; or



(b) The base value specified in subsection 3,
↪ whichever is greater, for each animal unit month leased.

2. To determine the minimum grazing fee for the purposes of subsection 1, the ~~Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio~~ State Land Registrar ~~[.]~~ shall:

(a) For each of the 3 years immediately preceding the year in which the land is leased:

(1) Divide the price of beef cattle as set forth in the beef price index for that year by the cost to produce livestock as set forth in the production price index for that year; and

(2) Multiply the quotient calculated pursuant to subparagraph (1) by the base value specified in subsection 3 for that year; and

(b) Upon determining an amount for each year pursuant to paragraph (a), add each of those amounts and divide the sum by 3.

3. For the purposes of this section, the base value is \$1.94 for the period beginning on July 1, 1997, and ending on December 31, 2003. On January 1, 2004, and every 6 years thereafter, the Administrator shall revise the base value to adjust for inflation.

4. As used in this section:

(a) "Animal unit month" means the amount of forage required to sustain one cow for one month.

(b) "Beef price index" means the index that:

(1) Indicates the price of beef cattle in this State; and

(2) Is calculated by the Administrator from data published annually by the United States Department of Agriculture.

(c) "Production price index" means the index that:

(1) Indicates the cost to produce livestock, including the costs related to interest, taxes and wages; and

(2) Is published annually by the United States Department of Agriculture.

Sec. 9. NRS 322.1007 is hereby amended to read as follows:

322.1007 1. *Except as otherwise provided in subsections 3 and 4, a person must secure authorization from the State Land Registrar before proceeding with any work below the high water mark of a navigable river, including, without limitation:*

(a) Dredging or filling, including, without limitation, the construction of a push-up dam;

(b) Bank stabilization or restoration;

(c) Channel clearance that involves the use of any mechanized equipment;

(d) Construction of irrigation diversions; or

(e) Construction of any structure on state lands.

2. *To secure the authorization required pursuant to subsection 1, a person must submit to the State Land Registrar an*



1 *application and the appropriate application fee established by*
2 *regulation of the State Land Registrar. An authorization issued by*
3 *the State Land Registrar pursuant to this section may include,*
4 *without limitation:*

5 *(a) A requirement that the person pay an annual use fee*
6 *established by regulation; and*

7 *(b) A clause acknowledging routine maintenance and repair of*
8 *authorized structures is allowed and does not require additional*
9 *approval within the term of the authorization.*

10 3. If an emergency causes an immediate threat to life, health or
11 property, a person may perform work below the high water mark of
12 a navigable river to the extent necessary to protect life, health or
13 property without first submitting an application ~~to~~ *for* or securing
14 ~~a permit~~ *authorization* from the State Land Registrar. If
15 reasonably practicable, before proceeding with any such work, the
16 person shall notify the State Land Registrar of the emergency by
17 telephone or other means. ~~Upon~~ *Not later than 15 business days*
18 *after the* completion of the work, the person initiating the work shall
19 ~~file an application with~~ *submit a form specified by* the State Land
20 Registrar ~~as required for~~ *describing* the work completed.

21 ~~{2. Neither an application to nor a permit from the State Land~~
22 ~~Registrar is required for work performed below the high water mark~~
23 ~~of a navigable river which constitutes routine maintenance or minor~~
24 ~~repairs, or both, of an:~~

25 ~~— (a) Irrigation diversion structure; or~~

26 ~~— (b) Outfall structure that is regulated by an individual permit~~
27 ~~issued pursuant to NRS 445A.300 to 445A.730, inclusive;~~

28 ~~→ if the irrigation diversion structure or outfall structure is not~~
29 ~~altered beyond the existing permitted size, configuration and~~
30 ~~location and the river bed is not disturbed.~~

31 ~~3. Except as otherwise provided in subsections 1 and 4, a~~
32 ~~person must file an application with the State Land Registrar and~~
33 ~~pay any required application fee but is not required to secure a~~
34 ~~permit from the State Land Registrar to}~~

35 4. *A person may* perform work below the high water mark of a
36 navigable river ~~for the following types of projects:~~

37 ~~— (a) Clearance of}~~ *without notifying or securing authorization*
38 *from the State Land Registrar in order to clear* vegetation *or*
39 *debris* that restricts the capacity of the channel or the flow of water
40 of a navigable river, or both ~~;~~

41 ~~— (b) Clearance of debris or temporary obstructions that restrict~~
42 ~~the capacity of the channel or the flow of water of a navigable river,~~
43 ~~or both; or~~



~~—(c) Bank stabilization or restoration, where all materials used are appropriate natural materials as determined by the State Land Registrar;~~

~~—4. Unless otherwise notified by the State Land Registrar, the person may proceed pursuant to subsection 3 with any such work 14 days after a completed application and any required fees are submitted to the State Land Registrar.] , so long as the work does not involve the use of mechanized equipment.~~

5. Work ~~[authorized by subsections 2 and 3:~~

~~—(a) Must] performed pursuant to this section must~~ be performed in accordance with best management practices to protect water quality . ~~[- and~~

~~—(b) Must not significantly disturb or alter the river bed or banks or the flow of water or alter the capacity of the channel.~~

~~—6. Except as otherwise provided by subsections 1, 2 and 3, a person must secure a permit from the State Land Registrar before proceeding with any work below the high water mark of a navigable river, including, but not limited to:~~

~~—(a) Dredging or filling;~~

~~—(b) Bank stabilization or restoration, where all materials used are not appropriate natural materials as determined by the State Land Registrar;~~

~~—(c) Channel clearance; or~~

~~—(d) Construction of irrigation diversions.~~

~~—7. The State Land Registrar shall process the application for a permit required by subsection 6 and issue the permit or notify the applicant that the application has been denied, within 60 days after the receipt of a completed application and any required application fee. This period may be extended by mutual agreement between the State Land Registrar and the applicant.~~

~~—8. Unless the period for acting upon the application is extended by mutual agreement pursuant to subsection 7, a completed application, which was properly submitted pursuant to subsection 7 with any required fees, that is not acted upon by the State Land Registrar within 60 days after receipt shall be deemed approved and the work requested may proceed upon payment by the applicant of any required fee for the permit.~~

~~—9.] 6.~~ All state agencies which have jurisdiction within a navigable river shall cooperate with the State Land Registrar in compiling information needed to process ~~[a permit] an application for authorization submitted~~ pursuant to ~~[subsection 7] this section~~ and shall provide a timely response to a request from the State Land Registrar for information or assistance.

~~[10.] 7.~~ Compliance with the provisions of this section does not relieve an applicant from the duty to comply with the provisions



1 of NRS 455.080 to 455.180, inclusive, and any other applicable
2 requirements of other state, local, regional or federal entities.

3 ~~[[1.]]~~ 8. *The State Land Registrar may adopt any regulations*
4 *necessary to carry out the provisions of this section, including,*
5 *without limitation, the requirements for submitting an application*
6 *for authorization.*

7 9. As used in this section, "high water mark" means the mean
8 high water line to which high water ordinarily reaches, not including
9 floodwaters.

10 **Sec. 10.** NRS 322.130 is hereby amended to read as follows:

11 322.130 Except as otherwise provided by specific statute, the
12 State Land Registrar shall charge ~~[[for:]]~~ *a fee in an amount*
13 *established by regulation for the issuance and annual use of:*

14 1. A permit *or other authorization* to engage in a project for
15 dredging or filling, to construct or install any gabion, riprap or
16 similar protective structure on state land or in a navigable body of
17 water, or to construct or install any groin, seawall, breakwater, jetty
18 or similar protective structure in a navigable body of water, for ~~[-~~

19 ~~—(a) Any] any commercial use, agricultural use or other use .~~
20 ~~[[other than an agricultural use, a fee of \$1,000.~~

21 ~~—(b) Any agricultural use, a fee of \$300.~~

22 ~~—(c) Any other use, except as otherwise provided in subsection 2,~~
23 ~~a fee of \$250.]~~

24 2. A permit *or other authorization* to engage in recreational
25 dredging . ~~[-, a fee of \$50 per year or \$5 per day.]~~

26 3. A permit *or other authorization* to construct or install a
27 structure on state land for the diversion of water to irrigate any land
28 for agricultural use . ~~[-, a fee of \$100.]~~ The State Land Registrar shall
29 not charge a fee for the use of state land to maintain or repair such a
30 structure ~~[-] if the permit or other authorization for construction or~~
31 ~~installation includes a clause acknowledging that maintenance or~~
32 ~~repairs are allowed within the term of the permit or authorization.~~

33 **Sec. 11.** NRS 322.160 is hereby amended to read as follows:

34 322.160 1. The proceeds of any fee , *rent or royalty* charged
35 pursuant to ~~[[NRS 322.100 to 322.130, inclusive,]]~~ *this chapter* must
36 be accounted for by the State Land Registrar and , ~~[-~~

37 ~~—1.]~~ *except as otherwise provided in subsection 2, paid into the*
38 *State General Fund.*

39 2. If the ~~[[fee]]~~ :

40 (a) *Fee, rent or royalty* is for any authorization to use land
41 granted to the State by the Federal Government for educational
42 purposes, the proceeds must be paid into the State Treasury for
43 credit to the State Permanent School Fund.

44 ~~[[2.—If the fee is for any]]~~



(b) *Proceeds of the fees charged for* authorization to use ~~any other~~ state land ~~[, except as otherwise provided in this subsection, the proceeds must be paid into the State Treasury for credit to the State General Fund. If the proceeds of the fees charged]~~ pursuant to NRS 322.120 ~~[to use any other state land]~~ exceed \$65,000 in any fiscal year, the amount which is in excess of \$65,000 must be accounted for separately *in an interest bearing account* and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. *Any interest or income earned on the money in the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of a fiscal year does not revert to the State General Fund and the balance in the account must be carried forward to the next fiscal year.*

Sec. 12. Notwithstanding the amendatory provisions of this act, the fees set forth in NRS 322.130, as that section existed on June 30, 2019, remain in effect until the regulations establishing fees pursuant to NRS 322.130, as amended by section 10 of this act, are adopted by the State Land Registrar and filed with the Secretary of State.

Sec. 13. NRS 322.125 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

322.125 Credit toward fee for commercial use of state land.

1. The State Land Registrar shall grant a person credit towards the fee imposed pursuant to NRS 322.120 for the commercial use of state land in an amount equal to:

(a) The amount that the total fees charged to that person pursuant to that section for the previous year exceeded one and one-half cents for each gallon of fuel sold plus 5 percent of that person's gross revenue from the commercial use of that state land, excluding the sale of fuel, for that year;

(b) The amount that the United States Forest Service returned to the State of Nevada from money that the person was required to pay pursuant to a lease or permit to use federal land during the previous year which is attributable to revenues earned on land belonging to the State of Nevada; and

(c) The difference between the fee for a permit for commercial use and the fee for a permit for multiple residential use if during the



previous year the person paid the fee for a permit for commercial use but did not conduct that commercial use.

2. A person who is eligible for a credit pursuant to subsection 1 shall demonstrate to the satisfaction of the State Land Registrar that the person is entitled to such a credit.

3. If the amount of a credit granted pursuant to this section exceeds the amount of the fee imposed pursuant to NRS 322.120 for the year in which the credit will be used, the excess credit is forfeited and the State Land Registrar shall not grant a refund or apply the credit to any other year.

