

**PROPOSED REGULATION OF THE
STATE CONTROLLER**

LCB File No. R141-04

July 28, 2004

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

AUTHORITY: §§1-12, NRS 353C.190.

A REGULATION relating to debts owed to the State of Nevada; revising provisions governing the recovery of debts by the State of Nevada; modifying the treatment of debtors who are employees of the State; providing a definition of “respondent”; and providing other matters properly relating thereto.

Section 1. Chapter 353C of NAC is hereby amended by adding thereto a new section to read as follows:

“Respondent” means any member of the staff of the agency that requested an offset pursuant to NAC 353C.100 to 353C.140, inclusive.

Sec. 2. NAC 353C.100 is hereby amended to read as follows:

353C.100 1. If an agency requests that the State Controller place a hold on payments to a person who owes a debt to the agency, the agency may, upon receiving notification from the State Controller that such a payment has been intercepted, submit to the State Controller a request to offset any amount due the agency from the debtor against any amount due the debtor from any agency.

2. The request must be submitted in the format provided by the State Controller.

3. The agency shall verify and certify the accuracy of the name and address of the debtor and the amount of the debt ~~[]~~ and shall immediately notify the State Controller if the agency discovers that any of the information is incorrect.

4. If an agency has requested that the State Controller place a hold on payments to a ~~[vendor]~~ *debtor* and such a payment is intercepted, any agency that receives notification pursuant to NAC 353C.110 that the payment has been intercepted and is being held for potential offset shall not attempt to pay that ~~[vendor]~~ *debtor* using a different vendor number ~~[]~~ *or by any other form of payment*, unless authorized by the State Controller or the agency that requested the hold on payments to the ~~[vendor]~~ *debtor*.

Sec. 3. NAC 353C.110 is hereby amended to read as follows:

353C.110 Except as otherwise provided in NAC 353C.140, not later than 5 working days after receiving a request to offset from an agency pursuant to NAC 353C.100, the State Controller will:

1. ~~[Proceed]~~ *Unless the debtor is an employee of the State of Nevada, proceed* with the suspension of all payments due the debtor from any agency.
2. Notify the requesting agency and each agency processing a payment to the debtor that the payment has been intercepted and is being held for potential offset.
3. Send written notice to the debtor that the agency has requested the offset and that the debtor has 10 days after the date of the notice in which to request a hearing before the State Controller to contest the offset. The notice will:
 - (a) Be sent by United States mail to the *last known* address of the debtor provided by the agency;
 - (b) Inform the debtor of the method by which he can request the hearing; and

(c) Inform the debtor that the authority for the offset is set forth in NRS 353C.190 and NAC 353C.100 to 353C.140, inclusive, and that the hearing will be held in accordance with the provisions of NAC 353C.150 to 353C.340, inclusive.

Sec. 4. NAC 353C.140 is hereby amended to read as follows:

353C.140 1. The State Controller will not offset ~~†~~

~~—(a) Any]~~ *any* amount due a debtor pursuant to a program of public assistance or any other program for which the Welfare Division of the Department of Human Resources is responsible .

~~†; or~~

~~—(b) Any amount due a debtor who is in bankruptcy.]~~

2. *The State Controller will refer all debts due from a debtor who is an employee of the State of Nevada to the payroll section of the Department of Personnel for the withholding of wages from the paycheck of the employee in accordance with all applicable laws, rules and regulations.*

3. As used in this section, “public assistance” has the meaning ascribed to it in NRS 422.050.

Sec. 5. NAC 353C.150 is hereby amended to read as follows:

353C.150 As used in NAC 353C.150 to 353C.340, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 353C.160, 353C.170 and ~~[353C.180]~~ *section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 353C.160 is hereby amended to read as follows:

353C.160 “Hearing” means a hearing before the State Controller *or his designee* concerning a requested offset pursuant to NAC 353C.100 to 353C.140, inclusive.

Sec. 7. NAC 353C.260 is hereby amended to read as follows:

353C.260 At a hearing, the petitioner and ~~{staff}~~ *respondent* may:

1. Call and examine witnesses.
2. Introduce relevant exhibits and evidence identified in their respective prehearing statements submitted pursuant to NAC 353C.290, subject to objection by the opposing party.
3. Cross-examine opposing witnesses on any relevant matter, even if that matter was not covered in the direct examination.
4. Impeach any witness regardless of which party first called him to testify.
5. Offer rebuttal evidence.
6. Call any person who, because of his relationship to any other party, may be an adverse witness ~~{}~~ and examine him as an adverse witness.

Sec. 8. NAC 353C.280 is hereby amended to read as follows:

353C.280 1. Except as otherwise provided in subsection 3, notice of the place, date and hour of a hearing will be served at least 15 days before the date set for the hearing.

2. A hearing will be held at the office of the State Controller in Carson City, Nevada, or at such other place in this ~~{state}~~ *State* as may be designated in the notice of hearing.

3. A hearing date may be set with less than 15 days' notice if the petitioner and the ~~{staff}~~ *respondent* agree in writing.

Sec. 9. NAC 353C.290 is hereby amended to read as follows:

353C.290 The petitioner and the ~~{staff}~~ *respondent* shall each submit a prehearing statement to the State Controller at least 5 days before the date of a hearing. The prehearing statement must include a statement of the issues to be presented and a list of witnesses and evidence to be presented at the hearing.

Sec. 10. NAC 353C.300 is hereby amended to read as follows:

353C.300 The State Controller *or his designee* retains discretion:

1. To grant continuances or recesses, both before and during a hearing; and
2. If a party fails to appear at the time and place set for a hearing, to dismiss the proceeding with or without prejudice ~~{,}~~ or to recess the hearing for a specified period to enable the party to attend.

Sec. 11. NAC 353C.310 is hereby amended to read as follows:

353C.310 1. The petitioner has the burden of proof in a hearing.

2. Unless otherwise ordered by the State Controller in a specific case, evidence will be received in the following manner:

- (a) Brief ~~{orientation by the staff;}~~ *opening statements by the petitioner and the respondent;*
- (b) Presentation of evidence by the petitioner;
- (c) Presentation of evidence by the ~~{staff;}~~ *respondent;* and
- (d) Presentation of rebuttal evidence by the petitioner.

Sec. 12. NAC 353C.180 and 353C.230 are hereby repealed.

TEXT OF REPEALED SECTIONS

353C.180 “Staff” defined. (NRS 353C.190) “Staff” means the staff of the Office of the State Controller.

353C.230 Proof of service of documents. (NRS 353C.190) With all documents required to be served, an acknowledgment of service or a certificate in substantially the following form must be included:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to) (by mailing a copy thereof, properly addressed, with postage prepaid, to).

Dated at, this(day) of(month) of(year)

Signature