

**LCB File No. R079-09**

**PROPOSED REGULATION OF  
THE STATE CONTROLLER**

PROPOSED REGULATIONS UNDER NRS Chapter 353C and AB87 (2009):

**Chapter 353C of NAC is hereby amended by adding thereto the provisions set forth as sections 145, and 500 to 700, inclusive, of this regulation.**

***DEBT OFFSETS***

***NAC 353C.145***

***Unless otherwise required by specific statute, a request to the State Controller to offset a debt under NRS 353C.190 is an assignment to the State Controller for collection of the debt by means of offset, and the debtor shall incur a fee of 2 percent of the amount of the debt, payable to the State Controller, pursuant to NRS 353C.135(1)(b).***

***REFUSAL TO CONDUCT TRANSACTIONS WITH DEBTORS***

***NAC 353C.500***

***An agency may refuse to conduct a transaction with, and the State Controller may refuse to draw his warrant in favor of, a person who owes a debt to an agency as provided in NRS 353C.xxx if the agency or the State Controller***

- 1. receives or acquires information from a State agency that the person owes a debt to a State agency; and***
- 2. the information is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs.***

***NAC 353C.510***

***1. If an agency refuses to conduct a transaction with a person, or the State Controller refuses to draw his warrant in favor of a person, on the ground that the person owes a debt to an agency, the refusing agency or the State Controller shall notify the person in writing of the agency or agencies to which that person allegedly owes the debt(s), and the amount(s) of the debt(s) allegedly owed.***

***2. The person who allegedly owes the debt may challenge, dispute or appeal the debt with the agency to which he allegedly owes the debt, under the procedures available within that agency. This regulation is not intended to grant a debtor any additional rights to challenge, dispute or appeal a debt that has been finally determined by the agency to which the debt is owed.***

***3. A person who contends that an agency may not refuse to conduct a transaction, or the State Controller may not refuse to draw a warrant, for any of the reasons stated in NRS353C.xxx(2) may petition the refusing agency or the State Controller in writing for relief under any of the grounds stated in NRS 353C.xxx(2).***

4. *The determination of whether a debt is paid or whether the debtor has entered into an agreement to pay the debt on an installment basis pursuant to NRS 353C.130 shall be made by*
  - (a) *The State Controller, if the debt has been assigned to the State Controller for collection;*
  - or*
  - (b) *The agency, if the debt has not been assigned to the State Controller for collection.*

#### **ASSIGNMENT OF DEBTS TO THE CONTROLLER**

##### **NAC 353C.600**

1. *An agency assigning a debt to the State Controller for collection shall, at the time of the assignment or as soon thereafter as is practicable, prepare an assignment in writing that identifies each debt assigned. The agency shall use the format for assignments prescribed by the State Controller.*
2. *By making the assignment of a debt to the State Controller, each agency represents*
  - (a) *that the debt is owed to an agency or the State of Nevada, and is past due within the meaning of NRS 353C.100; and*
  - (b) *that the debt is not administratively contested within the meaning of NRS 353C.195(4).*
3. *Failure to provide the documentation required in subsection 1 shall not invalidate the assignment of a debt.*
4. *The agency shall transmit to the State Controller at the time of the assignment of the debt any documents and information that would assist the Controller in the collection of the debt, and shall provide information reasonably requested by the State Controller, which may include, but is not limited to,*
  - (a) *information on the debtor's location and assets;*
  - (b) *documents showing the existence of the debt and any proceedings relating to the determination of the amount of the debt;*
  - (c) *any judgments obtained and other associated documents or pleadings;*
  - (d) *any recordation of judgment, claim of lien or similar documentation pertaining to the debt; and*
  - (e) *the history of collection efforts by the agency.*
5. *The State Controller may request additional information from the agency concerning any assigned debt to ascertain whether the debt is properly assigned to the State Controller for collection pursuant to NRS Chapter 353C, or to assist the State Controller in the collection of the debt.*

##### **NAC 353C.605**

*If at the time a debt is assigned to the State Controller for collection the agency has obtained a judgment on the debt, or has recorded a lien against the debtor or the debtor's assets, the agency shall notify the State Controller and provide a copy of the judgment or lien. The State Controller shall be responsible for renewing the judgment or lien after assignment of a debt to the State Controller; except that if less than 90 days remains before a judgment or lien must be renewed, the agency shall renew the judgment or lien before assigning the debt to the State Controller for collection.*

## **REQUESTS FOR WAIVERS OF NRS 353C.195**

### **NAC 353C.610**

**1. Any agency requesting a waiver of any of the requirements of NRS 353C.195 pursuant to NRS 353C.195(5) shall make a request to the State Controller in writing, and shall include in the request, as applicable,**

- (a) The agency's procedures for collecting its debts;**
- (b) The agency's historical success in collecting its debts;**
- (c) The agency's resources available for debt collection;**
- (d) Reasons that the agency is better able to collect its debts than the State Controller; and**
- (e) Any other good cause for granting a waiver of some or all of the requirements of NRS 353C.195.**

**2. The State Controller may request any other information from the agency that is reasonably necessary or appropriate to permit the State Controller to make a decision on the request.**

**3. Any agreement between the agency and the State Controller for special procedures for the collection or assignment of debts shall be memorialized in writing.**

**4. A waiver of any of the requirements of NRS 353C.195 pursuant to NRS 353C.195(5), and any agreement between the agency and the State Controller for special procedures for the collection or assignment of debts, may be reviewed by the State Controller annually, or upon any material change in the conditions that gave rise to the waiver or agreement.**

## **INTEREST ON INSTALLMENT AGREEMENTS UNDER NRS 353C.130**

### **NAC353C.700**

**1. If the State Controller enters into an agreement with a debtor for payment of a debt on an installment basis pursuant to NRS 353C.130, the agreement may provide for a reasonable rate of interest on the unpaid principal balance. The current rate of interest under NRS 99.040 shall be deemed a reasonable rate of interest for any such installment agreement.**

**2. Interest paid pursuant to an installment agreement entered into pursuant to NRS 353C.130 shall be paid to the State Controller and shall not be counted as part of the debt owed to the agency.**