

Assembly Bill No. 314—Committee on Government Affairs

CHAPTER.....

AN ACT relating to state financial administration; making various changes relating to the collection of debts owed to the state; increasing certain fees and charges; and providing other matters properly relating thereto.

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

Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 2.5 and 3 of this act.

Sec. 2. *1. The state controller may, if requested by any state agency, act as the collection agent for that agency.*

2. If the state controller acts as the collection agent for an agency, the agency may coordinate all its debt collection efforts through the state controller.

Sec. 2.5. *If, in a previous transaction between an agency and a person, a check or draft was returned to the agency because the person had insufficient money or credit with the drawee to pay the check or draft or because the person had stopped payment on the check or draft, the agency may refuse to conduct an additional transaction with the person until the debt owed in the previous transaction is paid.*

Sec. 3. *Except as otherwise provided by specific statute, a person who owes a debt of more than \$200 pursuant to this chapter shall, in addition to the debt, pay as reimbursement for the costs and fees actually incurred to collect the debt an amount not to exceed 25 percent of the amount of the debt or \$25,000, whichever is less. Any prejudgment or postjudgment interest on the debt authorized by law must not be included in the calculation of the costs and fees actually incurred to collect the debt.*

Sec. 4. NRS 353C.120 is hereby amended to read as follows:

353C.120 *1. Each agency shall submit to the state controller periodic reports of the debts owed to the agency. The state controller shall maintain the reports to the extent that resources are available. The director of the department of administration and the attorney general shall jointly prescribe the time, form and manner of the reports.*

2. Except to the extent that the information on the reports is declared to be confidential by a specific statute of this state or federal law, the state controller shall make the reports available for public inspection and may, without charge, make available for access on the Internet or its successor, if any, the information contained in the reports.

Sec. 5. NRS 353C.200 is hereby amended to read as follows:

353C.200 *1. Except as otherwise provided in subsection 2, an agency may enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the agency:*

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the agency to collect the debt, including collection efforts pursuant to this chapter;

(b) Determines the assignment will not compromise future collections of state revenue; and

(c) Notifies the debtor in writing at his address of record that the debt will be turned over for private collection unless the debt is paid.

2. An agency shall not enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the debt has been contested by the debtor.

3. *A contract for the assignment of the collection of a debt may provide for:*

(a) Payment by the agency to the private debt collector or other person of the costs of collection and fees for collecting the debt; or

(b) Collection by the private debt collector or other person from the debtor of the costs of collection and fees for collecting the debt.

4. Any contract entered into pursuant to this section is subject to approval by the director of the department of administration and the state controller.

Sec. 6. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, an agency to which a debt is owed may, in addition to any other remedy provided for in this chapter, give notice of the amount of the debt and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this state, who has in his possession or under his control any credits or other personal property belonging to the debtor, or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than 4 years after the debt became due; or

(b) Not later than ~~5~~ 6 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this state, the notice must be delivered before the agency which sent the notice may file a claim with the state controller pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the agency which sent the demand to transmit.

5. Except as otherwise provided by specific statute, a person who receives from an agency a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the agency of, and transmit to the agency within the time and in the manner requested by the agency, all credits or other personal property in his possession or control that belong to, and all debts that he owes to, the person who is the subject of the

demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the agency which sent the demand to transmit until otherwise notified by the agency. If the debt of the debtor is not paid within 1 year after the date on which the agency issued the original demand to transmit, the agency shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs him to continue transmitting payments to the agency; or

(b) Notify the person that his duty to transmit the payments to the agency has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to ~~the~~ *any* branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom an agency delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the agency, the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the agency for any portion of the debt that the agency is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency which delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

Sec. 7. NRS 353C.220 is hereby amended to read as follows:

353C.220 1. If an agency determines that it is impossible or impractical to collect a debt, the agency may request the state board of examiners to designate the debt as a bad debt. The state board of examiners, by an affirmative vote of the majority of the members of the board, may designate the debt as a bad debt if the board is satisfied that the collection of the debt is impossible or impractical.

2. Upon the designation of a debt as a bad debt pursuant to this section, the state board of examiners shall immediately notify the state controller thereof. Upon receiving the notification, the state controller shall direct the removal of the debt from the ~~records and books of~~ *books of* account of the ~~agency to which the debt is owed or the~~ State of Nevada . ~~as appropriate.~~ A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the ~~agency or the~~ State of Nevada . ~~as appropriate.~~

3. If resources are available, the state controller shall keep a master file of all debts that are designated as bad debts pursuant to this section. If such

a file is established and maintained, for each such debt, the state controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of the agency or the State of Nevada, and any other information concerning the debt that the state controller determines is necessary.

Sec. 8. NRS 360.238 is hereby amended to read as follows:

360.238 The department may charge a person a fee ~~established by regulation~~ of \$25 for each check returned to the department because the person had insufficient money or credit with the drawee to pay the check or because the person stopped payment on the check.

Sec. 9. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the department or if a determination has been made against him which remains unpaid, the department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than ~~5~~ 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of the state or any political subdivision or agency of the state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before it presents the claim of the delinquent taxpayer to the state controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the department's notice.

3. After receiving the demand to transmit, the persons so notified may not transfer or otherwise dispose of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the department consents to a transfer or other disposition.

4. All persons so notified shall, within 10 days after receipt of the demand to transmit, inform the department of, and transmit to the department all such credits, other personal property, or debts in their possession, under their control or owing by them within the time and in the manner requested by the department. Except as otherwise provided in subsection 5, no further notice is required to be served to those persons.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the department until otherwise notified by the department. If the debt of the delinquent taxpayer is not paid within 1 year after the department issued the original demand to transmit, it shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the

department or that his duty to transmit the payments to the department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to ~~the~~ *any* branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person so notified makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the state for any indebtedness due pursuant to NRS 482.313, this chapter or chapter 362, 364A, 365, 369, 370, 372, 372A, 373, 374, 377, 377A, 444A, 585, 590 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 679B.228 is hereby amended to read as follows:

679B.228 The division may charge a person a fee ~~adopted by regulation by the commissioner~~ *of \$25* for each check returned to the division because the person had insufficient money or credit with the drawee to pay the check or because the person stopped payment on the check.

Sec. 12. Section 50 of chapter 224, Statutes of Nevada 1999, as amended by section 220 of chapter 354, Statutes of Nevada 1999, at page 1555, is hereby amended to read as follows:

Sec. 50. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the department or if a determination has been made against him which remains unpaid, the department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of ~~the~~ *this* state or any political subdivision or agency of ~~the~~ *this* state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before ~~it~~ *the department* presents the claim of the delinquent taxpayer to the state controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the ~~department's notice~~ *notice of the department*.

3. After receiving the demand to transmit, the ~~persons so~~ *person* notified *by the demand* may not transfer or otherwise dispose of the credits, other personal property, or debts in ~~their~~ *his* possession or under ~~their~~ *his* control at the time ~~they~~ *he* received the notice until the department consents to a transfer or other disposition.

4. ~~All persons so~~ *Every person* notified *by a demand to transmit* shall, within 10 days after receipt of the demand to transmit, inform the department of, and transmit to the department all such credits, other personal property, or debts in ~~their~~ *his* possession, under ~~their~~ *his* control or owing by ~~them~~ *him* within the time and in the manner requested by the department. Except as otherwise provided in subsection 5, no further notice is required to be served to ~~those persons~~ *that person*.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the department until otherwise notified by the department. If the debt of the delinquent taxpayer is not paid within 1 year after the department issued the original demand to transmit, ~~the~~ *the department* shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the department or that his duty to transmit the payments to the department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person ~~so~~ notified *by the notice of the delinquency* makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the state for any indebtedness due pursuant to ~~NRS 482.313,~~ this chapter, or chapter 362, 364A, ~~365,~~ 369, 370, 372, 372A, ~~373,~~ 374, 377, 377A ~~444A, 585, 590~~ or *444A of NRS, NRS 482.313, or chapter 585 or 680B* of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 13. 1. The state controller, in cooperation with the department of motor vehicles and public safety and the division of wildlife of the state department of conservation and natural resources, may establish a pilot program to improve the collection of debts owed to an agency or the State of Nevada through the suspension of, cancellation of or refusal to renew vehicle registrations and certain licenses and permits issued by the state and the refusal to provide related services.

2. As used in this section, “agency” has the meaning ascribed to it in NRS 353C.020.

Sec. 14. 1. If a pilot program is established pursuant to section 13 of this act, the department of motor vehicles and public safety, when it receives a notice from the state controller that a person to whom the department has issued a license or permit or for whom the department has registered a vehicle is in default on a debt owed to an agency or the State of Nevada, shall send a written notice to that person advising him that his license or permit and vehicle registration are subject to suspension, cancellation or refusal to renew.

2. The notice must include:

- (a) The reason for the suspension of, cancellation of or refusal to renew the license or permit and vehicle registration;
- (b) The text of this section; and
- (c) Any other information that the department deems necessary.

3. Upon receipt of notice from the state controller pursuant to subsection 1 that a person to whom the department has issued a license or permit or for whom the department has registered a vehicle is in default on a debt owed to an agency or the State of Nevada, the department may, after sending the written notice required pursuant to that subsection, suspend, cancel or refuse to renew the license or permit of the person and the registration of a vehicle owned by the person.

4. The department shall reinstate such a license or permit and vehicle registration if it receives:

(a) A notice from the state controller that the person has:

(1) Paid the debt, including all penalties, interest, costs and fees, if any;

(2) Entered into an agreement for the payment of the debt on an installment basis pursuant to NRS 353C.130; or

(3) Obtained a discharge in bankruptcy of the debt; and

(b) Payment of the fee prescribed in:

(1) NRS 483.410 for reinstatement of a suspended or canceled license; or

(2) NRS 482.480 for reinstatement of a suspended vehicle registration.

5. The department shall not require a person whose driver's license or permit is suspended or canceled pursuant to this section to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of the reinstatement of the license or permit.

6. As used in this section, "agency" has the meaning ascribed to it in NRS 353C.020.

Sec. 15. 1. If a pilot program is established pursuant to section 13 of this act, the division of wildlife of the state department of conservation and natural resources, when it receives a notice from the state controller that a person who holds a license or permit to hunt, fish or trap, or any other license or permit issued by the division, is in default on a debt owed to an agency or the State of Nevada, shall send a written notice to that person advising him that:

(a) His license or permit is subject to suspension, cancellation or refusal to renew; and

(b) He is subject to a fee of \$25 for each check or draft returned to the division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft.

2. The notice must include:

(a) The reason for the suspension of, cancellation of or refusal to renew the license or permit;

(b) The text of this section; and

(c) Any other information that the division deems necessary.

3. Upon receipt of notice from the state controller pursuant to subsection 1 that a person to whom the division has issued a license or permit is in default on a debt owed to an agency or the State of Nevada, the division may, after sending the written notice required pursuant to that subsection, suspend, cancel or refuse to renew the license or permit of the person.

4. The division shall reinstate such a license or permit if:

(a) The license or permit is still valid and has not expired; and

(b) The division receives a notice from the state controller that the person has:

(1) Paid the debt, including all penalties, interest, costs and fees, if any;

(2) Entered into an agreement for the payment of the debt on an installment basis pursuant to NRS 353C.130; or

(3) Obtained a discharge in bankruptcy of the debt.

5. The division shall not issue a new license or permit to hunt, fish or trap, or any other license or permit issued by the division, to a person whose license or permit is suspended, cancelled or refused renewal pursuant to this section unless the division receives a notice from the state controller that the person has:

(a) Paid the debt, including all penalties, interest, costs and fees, if any;

(b) Entered into an agreement for the payment of the debt on an installment basis pursuant to NRS 353C.130; or

(c) Obtained a discharge in bankruptcy of the debt.

6. As used in this section, “agency” has the meaning ascribed to it in NRS 353C.020.

Sec. 16. 1. This act becomes effective upon passage and approval.

2. Sections 13, 14 and 15 of this act expire by limitation on October 1, 2003.