

ASSEMBLY BILL NO. 314—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF STATE CONTROLLER)

MARCH 9, 2001

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning collection of debts owed to state.
(BDR 31-642)

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

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

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:

- 1 **Section 1.** Chapter 353C of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2, 2.5 and 3 of this act.
3 **Sec. 2.** *1. The state controller may, if requested by any state*
4 *agency, act as the collection agent for that agency.*
5 *2. If the state controller acts as the collection agent for an agency,*
6 *the agency may coordinate all its debt collection efforts through the state*
7 *controller.*
8 **Sec. 2.5.** *If, in a previous transaction between an agency and a*
9 *person, a check or draft was returned to the agency because the person*
10 *had insufficient money or credit with the drawee to pay the check or draft*
11 *or because the person had stopped payment on the check or draft, the*
12 *agency may refuse to conduct an additional transaction with the person*
13 *until the debt owed in the previous transaction is paid.*
14 **Sec. 3.** *Except as otherwise provided by specific statute, a person*
15 *who owes a debt of more than \$200 pursuant to this chapter shall, in*
16 *addition to the debt, pay as reimbursement for the costs and fees actually*
17 *incurred to collect the debt an amount not to exceed 25 percent of the*
18 *amount of the debt or \$25,000, whichever is less. Any prejudgment or*
19 *postjudgment interest on the debt authorized by law must not be included*



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1 *in the calculation of the costs and fees actually incurred to collect the*
2 *debt.*

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

4 353C.120 1. Each agency shall submit to the state controller periodic
5 reports of the debts owed to the agency. The state controller shall maintain
6 the reports to the extent that resources are available. The director of the
7 department of administration and the attorney general shall jointly
8 prescribe the time, form and manner of the reports.

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

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

15 353C.200 1. Except as otherwise provided in subsection 2, an agency
16 may enter into a contract with a private debt collector or any other person
17 for the assignment of the collection of a debt if the agency:

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

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

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

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

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

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

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

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

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

38 353C.210 1. Notwithstanding any specific statute to the contrary, an
39 agency to which a debt is owed may, in addition to any other remedy
40 provided for in this chapter, give notice of the amount of the debt and a
41 demand to transmit to any person, including, without limitation, any
42 officer, agency or political subdivision of this state, who has in his
43 possession or under his control any credits or other personal property
44 belonging to the debtor, or who owes any debts to the debtor that remain
45 unpaid. The notice and demand to transmit must be delivered personally or
46 by certified or registered mail:

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



1 (b) Not later than ~~15~~ 6 years after the last recording of an abstract of
2 judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to
3 NRS 353C.180.

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

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

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

19 5. Except as otherwise provided by specific statute, a person who
20 receives from an agency a demand to transmit pursuant to this section
21 shall, within 10 days thereafter, inform the agency of, and transmit to the
22 agency within the time and in the manner requested by the agency, all
23 credits or other personal property in his possession or control that belong
24 to, and all debts that he owes to, the person who is the subject of the
25 demand to transmit. Except as otherwise provided in subsection 6, no
26 further notice is required to be served on such persons.

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

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

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

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

45 8. If any person to whom an agency delivers a notice and demand to
46 transmit transfers or otherwise disposes of any property or debts required
47 by this chapter to be transmitted to the agency, the person is, to the extent
48 of the value of the property or the amount of the debts so transferred or
49 disposed of, liable to the agency for any portion of the debt that the agency



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1 is unable to collect from the debtor solely by reason of the transfer or other
2 disposition of the property or debt.

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

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

10 353C.220 1. If an agency determines that it is impossible or
11 impractical to collect a debt, the agency may request the state board of
12 examiners to designate the debt as a bad debt. The state board of
13 examiners, by an affirmative vote of the majority of the members of the
14 board, may designate the debt as a bad debt if the board is satisfied that the
15 collection of the debt is impossible or impractical.

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

24 3. If resources are available, the state controller shall keep a master file
25 of all debts that are designated as bad debts pursuant to this section. If such
26 a file is established and maintained, for each such debt, the state controller
27 shall record the name of the debtor, the amount of the debt, the date on
28 which the debt was incurred and the date on which it was removed from
29 the records and books of account of the agency or the State of Nevada, and
30 any other information concerning the debt that the state controller
31 determines is necessary.

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

33 360.238 The department may charge a person a fee ~~established by~~
34 ~~regulation~~ **of \$25** for each check returned to the department because the
35 person had insufficient money or credit with the drawee to pay the check or
36 because the person stopped payment on the check.

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

38 360.510 1. If any person is delinquent in the payment of any tax or
39 fee administered by the department or if a determination has been made
40 against him which remains unpaid, the department may:

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

43 (b) Not later than ~~5~~ **6** years after the last recording of an abstract of
44 judgment or of a certificate constituting a lien for tax owed,
45 give a notice of the delinquency and a demand to transmit personally or by
46 registered or certified mail to any person, including, without limitation, any
47 officer or department of the state or any political subdivision or agency of
48 the state, who has in his possession or under his control any credits or other
49 personal property belonging to the delinquent, or owing any debts to the



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1 delinquent or person against whom a determination has been made which
2 remains unpaid, or owing any debts to the delinquent or that person. In the
3 case of any state officer, department or agency, the notice must be given to
4 the officer, department or agency before it presents the claim of the
5 delinquent taxpayer to the state controller.

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

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

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

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

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

35 7. If any person so notified makes any transfer or other disposition of
36 the property or debts required to be withheld or transmitted, to the extent of
37 the value of the property or the amount of the debts thus transferred or
38 paid, he is liable to the state for any indebtedness due pursuant to NRS
39 482.313, this chapter or chapter 362, 364A, 365, 369, 370, 372, 372A, 373,
40 374, 377, 377A, 444A, 585, 590 or 680B of NRS from the person with
41 respect to whose obligation the notice was given if solely by reason of the
42 transfer or other disposition the state is unable to recover the indebtedness
43 of the person with respect to whose obligation the notice was given.

44 **Sec. 10.** (Deleted by amendment.)

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

46 679B.228 The division may charge a person a fee ~~adopted by~~
47 ~~regulation by the commissioner~~ **of \$25** for each check returned to the
48 division because the person had insufficient money or credit with the



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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, ~~it~~ *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.



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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 ~~is~~ 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.



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- 1 4. The department shall reinstate such a license or permit and vehicle
2 registration if it receives:
3 (a) A notice from the state controller that the person has:
4 (1) Paid the debt, including all penalties, interest, costs and fees, if
5 any;
6 (2) Entered into an agreement for the payment of the debt on an
7 installment basis pursuant to NRS 353C.130; or
8 (3) Obtained a discharge in bankruptcy of the debt; and
9 (b) Payment of the fee prescribed in:
10 (1) NRS 483.410 for reinstatement of a suspended or canceled
11 license; or
12 (2) NRS 482.480 for reinstatement of a suspended vehicle
13 registration.
14 5. The department shall not require a person whose driver's license or
15 permit is suspended or canceled pursuant to this section to submit to the
16 tests and other requirements which are adopted by regulation pursuant to
17 subsection 1 of NRS 483.495 as a condition of the reinstatement of the
18 license or permit.
19 6. As used in this section, "agency" has the meaning ascribed to it in
20 NRS 353C.020.
21 **Sec. 15.** 1. If a pilot program is established pursuant to section 13 of
22 this act, the division of wildlife of the state department of conservation and
23 natural resources, when it receives a notice from the state controller that a
24 person who holds a license or permit to hunt, fish or trap, or any other
25 license or permit issued by the division, is in default on a debt owed to an
26 agency or the State of Nevada, shall send a written notice to that person
27 advising him that:
28 (a) His license or permit is subject to suspension, cancellation or refusal
29 to renew; and
30 (b) He is subject to a fee of \$25 for each check or draft returned to the
31 division because the person had insufficient money or credit with the
32 drawee to pay the check or draft or because the person stopped payment on
33 the check or draft.
34 2. The notice must include:
35 (a) The reason for the suspension of, cancellation of or refusal to renew
36 the license or permit;
37 (b) The text of this section; and
38 (c) Any other information that the division deems necessary.
39 3. Upon receipt of notice from the state controller pursuant to
40 subsection 1 that a person to whom the division has issued a license or
41 permit is in default on a debt owed to an agency or the State of Nevada, the
42 division may, after sending the written notice required pursuant to that
43 subsection, suspend, cancel or refuse to renew the license or permit of the
44 person.
45 4. The division shall reinstate such a license or permit if:
46 (a) The license or permit is still valid and has not expired; and
47 (b) The division receives a notice from the state controller that the
48 person has:



- 1 (1) Paid the debt, including all penalties, interest, costs and fees, if
- 2 any;
- 3 (2) Entered into an agreement for the payment of the debt on an
- 4 installment basis pursuant to NRS 353C.130; or
- 5 (3) Obtained a discharge in bankruptcy of the debt.
- 6 5. The division shall not issue a new license or permit to hunt, fish or
- 7 trap, or any other license or permit issued by the division, to a person
- 8 whose license or permit is suspended, cancelled or refused renewal
- 9 pursuant to this section unless the division receives a notice from the state
- 10 controller that the person has:
- 11 (a) Paid the debt, including all penalties, interest, costs and fees, if any;
- 12 (b) Entered into an agreement for the payment of the debt on an
- 13 installment basis pursuant to NRS 353C.130; or
- 14 (c) Obtained a discharge in bankruptcy of the debt.
- 15 6. As used in this section, “agency” has the meaning ascribed to it in
- 16 NRS 353C.020.
- 17 **Sec. 16.** 1. This act becomes effective upon passage and approval.
- 18 2. Sections 13, 14 and 15 of this act expire by limitation on
- 19 October 1, 2003.

