

Amendment No. 511

Assembly Amendment to Assembly Bill No. 87 (BDR 31-494)

Proposed by: Assembly Committee on Government Affairs**Amendment Box:** Replaces Amendment No. 196.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

EGO



Date: 4/19/2009

A.B. No. 87—Revises provisions concerning the collection of debts owed to the State. (BDR 31-494)



ASSEMBLY BILL NO. 87—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE CONTROLLER)

PREFILED DECEMBER 15, 2008

Referred to Committee on Government Affairs

SUMMARY—Revises provisions concerning the collection of debts owed to the State. (BDR 31-494)

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

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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 administration; revising the provisions governing the collection of certain debts owed to state agencies; revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State; establishing certain presumptions applicable to certain civil actions against employers who fail to provide mandatory industrial insurance or coverage for occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) **Section 17** of this bill requires the State Controller to act as the collection agent for all agencies ~~that~~ which do not have specific statutes concerning their debt collection ~~that~~ or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts. Accordingly, **section 17** also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due or such other time agreed upon by the agency and the State Controller. unless the debtor ~~requests an administrative hearing to contest~~ has administratively contested the existence or amount of the debt. Finally, **section 17** ~~requires an agency to pay a fee of \$10 to the State Controller for each debt assigned to him for collection.~~ authorizes an agency that has specific statutory authority to engage in its own collection efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts. (NRS 353C.195) **Section 11** of this bill increases the amount of reimbursement allowed for the costs and fees actually incurred to collect the debt to an amount not to exceed 35 percent of the debt or \$50,000, whichever is less. **Sections 10, ~~12, 13, 15~~ 12-16 and 18-20** of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection

of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, 353C.160, 353C.180, 353C.190, 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. **Section 2** authorizes with certain exceptions, an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. ~~[Section 2 requires an agency, before assigning a debt to the State Controller, to send a certified letter to the debtor notifying him that his debt will be turned over to the State Controller for collection unless the debtor pays the debt in full or requests an administrative hearing to contest the existence or amount of the debt.]~~ **Section 4** authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. **Section 5** authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing his efforts to collect the full amount of the debt. **Section 6** authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

Section 7 of this bill requires the State Controller to transfer to an agency any money collected by the State Controller on behalf of the agency minus any costs incurred or fees paid by the State Controller to collect ~~that~~ any debt that has been assigned to him for collection by the agency and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. Sections 8, 9 and 22 of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)

Existing law includes chapter 11 of NRS which contains most of the statutes that limit the amount of time following the accrual of a cause of action during which a civil action may be filed. These statutes are commonly referred to as statutes of limitation. Existing law also provides that the same statutes of limitation that apply to actions brought by private individuals also apply to actions brought on behalf of the State, other than actions for the recovery of real property. **Section 21** of this bill reverses the provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State to provide that none of the provisions of chapter 11 of NRS concerning statutes of limitation apply to actions brought by or on behalf of the State, other than actions for the recovery of real property. (NRS 11.255)

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment. (NRS 616C.220, 617.401) Sections 21.3 and 21.7 of this bill create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. Sections 21.3 and 21.7 also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

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 to 7, inclusive, of this act.

Sec. 2. 1. Except as otherwise provided in this section, an agency may refuse to conduct a transaction with, and the State Controller may refuse to draw

1 his warrant in favor of, a person who owes a debt to an agency until the debt is
2 paid or the debtor enters into an agreement, pursuant to NRS 353C.130, for the
3 payment of the debt on an installment basis.

4 2. An agency may not refuse to conduct a transaction with, and the State
5 Controller may not refuse to draw his warrant in favor of, a debtor if:

6 (a) The refusal violates or is prohibited by a state or federal law or court
7 order;

8 (b) The refusal violates a term or condition of a grant, contract or other
9 agreement that the agency administers or to which the agency is a party; or

10 (c) The State Controller determines that the refusal is inequitable.

11 ~~Sec. 3. [1. Except as otherwise provided in this section, an agency must,~~
12 ~~before assigning a debt to the State Controller pursuant to NRS 353C.195, notify~~
13 ~~the debtor that his debt will be assigned to the State Controller for collection~~
14 ~~unless the debtor:~~

15 ~~— (a) Pays the debt in full; or~~

16 ~~— (b) Requests an administrative hearing, pursuant to this section, to contest~~
17 ~~the existence or amount of the debt.~~

18 ~~2. The notice must be sent by certified mail to the last known address of the~~
19 ~~debtor and must identify the agency to which the debt is owed, the amount of the~~
20 ~~debt and the date on which the debt will be turned over to the State Controller for~~
21 ~~collection.~~

22 ~~3. The State Controller may, at the request of an agency, prepare and send~~
23 ~~to a debtor on behalf of the agency the notice required by this section.~~

24 ~~4. A debtor who receives a notice pursuant to this section is entitled to an~~
25 ~~administrative hearing to contest the existence or amount of the debt. Each~~
26 ~~agency, or the State Controller on behalf of the agency, may adopt such~~
27 ~~regulations as are necessary to provide an administrative hearing for the~~
28 ~~purposes of this subsection.] (Deleted by amendment.)~~

29 Sec. 4. 1. [H] Notwithstanding any specific statute to the contrary, if an
30 agency has assigned a debt to the State Controller for collection pursuant to NRS
31 353C.195, the State Controller may:

32 (a) Appoint a private debt collector or any other person as his agent to:

33 (1) File an application for the entry of summary judgment against the
34 debtor pursuant to NRS 353C.150; or

35 (2) Record a certificate of liability against the debtor in the office of a
36 county recorder pursuant to NRS 353C.180; and

37 (b) Authorize his agent to incur any reasonable costs, including, without
38 limitation, attorney's fees, that are necessary to carry out his duties pursuant to
39 the appointment.

40 2. The State Controller must, before he appoints an agent pursuant to this
41 section, determine that making the appointment is likely to generate more net
42 revenue for the State than other methods available to the State Controller to
43 collect the debt.

44 Sec. 5. [Unless prohibited by a] Notwithstanding any specific statute, [H] to
45 the contrary, the State Controller may enter into an agreement with a debtor to
46 accept the payment of a portion of the debt in full satisfaction of the debt,
47 including any penalty and interest, if:

48 1. The State Controller determines that accepting the agreed upon amount
49 is likely to generate more net revenue for the State than continuing efforts to
50 collect the full amount of the debt; and

51 2. The agency to which the debt is owed approves.

52 Sec. 6. If the period of limitation for the collection of a debt set forth in
53 NRS 353C.140 has expired, the State Controller may, in lieu of requesting the

1 *State Board of Examiners to designate the debt as a bad debt pursuant to NRS*
2 *353C.220, sell the debt to any person.*

3 **Sec. 7.** *If the State Controller collects any money from a debtor or receives*
4 *any money from a private debt collector or other person to whom the State*
5 *Controller has assigned the collection of a debt, the State Controller shall unless*
6 *prohibited by federal law, transfer the money to the agency to which the debt is*
7 *owed minus the amount of:*

8 1. *Any costs incurred or fees paid by the State Controller to collect ~~the~~ any*
9 *debt ~~is~~ assigned to him for collection by the agency.*

10 2. *Any interest on the debt collected by the State Controller under the terms*
11 *of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of*
12 *the debt on an installment basis.*

13 **Sec. 7.5.** NRS 353C.090 is hereby amended to read as follows:

14 353C.090 The provisions of this chapter apply to an agency only to the extent
15 that no other specific statute exists which provides for the collection of debts due
16 the agency ~~to~~ or, if such a specific statute exists, the agency has assigned a
17 debt to the State Controller pursuant to NRS 353C.195. Except in the case of
18 such an assignment, to the extent that the provisions of this chapter conflict with
19 such a specific statute, the provisions of the specific statute control.

20 **Sec. 8.** NRS 353C.110 is hereby amended to read as follows:

21 353C.110 The ~~{Director of the Department of Administration and the~~
22 ~~Attorney General may jointly}~~ *State Controller may* adopt such regulations as are
23 necessary to carry out the provisions of this chapter.

24 **Sec. 9.** NRS 353C.120 is hereby amended to read as follows:

25 353C.120 1. Each agency shall submit to the State Controller periodic
26 reports of the debts owed to the agency. The State Controller shall maintain the
27 reports ~~. {to the extent that resources are available. The Director of the Department~~
28 ~~of Administration and}~~ *The State Controller and* the Attorney General shall jointly
29 prescribe the time, form and manner of the reports.

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

35 **Sec. 10.** NRS 353C.130 is hereby amended to read as follows:

36 353C.130 ~~{An agency}~~ *The State Controller* may enter into an agreement
37 with a debtor which provides for the payment of a debt owed by the debtor to ~~the~~
38 *an* agency on an installment basis over a 12-month or lesser period. Upon good
39 cause shown by the debtor, the ~~agency~~ *State Controller* may extend the period
40 during which installment payments will be made for more than a 12-month period.

41 **Sec. 11.** NRS 353C.135 is hereby amended to read as follows:

42 353C.135 Except as otherwise provided by specific statute, a person who
43 owes a debt of more than \$200 pursuant to this chapter shall, in addition to the debt,
44 pay as reimbursement for the costs and fees actually incurred to collect the debt an
45 amount not to exceed ~~{25}~~ *35* percent of the amount of the debt or ~~[\$25,000,]~~
46 *\$50,000*, whichever is less. Any prejudgment or postjudgment interest on the debt
47 authorized by law must not be included in the calculation of the costs and fees
48 actually incurred to collect the debt.

49 **Sec. 12.** NRS 353C.140 is hereby amended to read as follows:

50 353C.140 If a person has not paid a debt that the person owes to an agency,
51 the Attorney General, upon the request of the ~~agency~~ *State Controller:*

52 1. Except as otherwise provided in this section, shall bring an action in a court
53 of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction, ~~on behalf of this State~~ ~~and the agency~~ to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4 years after the date on which the debt became due or within 5 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 13. NRS 353C.150 is hereby amended to read as follows:

353C.150 1. In addition to any other remedy provided for in this chapter, if a person who owes a debt to an agency:

(a) Fails to pay the debt when it is due, or fails to pay an agreed upon amount in satisfaction of the debt; or

(b) Defaults on a written or other agreement ~~with an agency~~ relating to the payment of the debt,

~~the agency~~ **State Controller** may, within 4 years after the date on which the debt became due or the date on which the debtor defaulted, as appropriate, file with the office of the clerk of a court of competent jurisdiction an application for the entry of summary judgment against the debtor for the amount due.

2. ~~An agency that intends to file an application for the entry of summary judgment pursuant to this section~~ **The State Controller** shall, not less than 15 days before the date on which ~~the agency~~ **he** intends to file the application, notify the debtor of ~~its~~ **his** intention to file the application. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~to which the debt is owed~~, the amount sought to be recovered and the date on which the application will be filed with the court.

3. An application for the entry of summary judgment must:

(a) Be accompanied by a certificate that specifies:

(1) The amount of the debt, including any interest and penalties due;

(2) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~agency~~ **State Controller**;

(3) The basis for the determination ~~by the agency~~ of the amount due; and

(4) That the ~~agency~~ **State Controller** has complied with the applicable provisions of law relating to the determination of the amount required to be paid; and

(b) Include:

(1) A request that judgment be entered against the debtor for the amount specified in the certificate; and

(2) Evidence that the debtor was notified of the application for the entry of summary judgment in accordance with subsection 2.

Sec. 14. NRS 353C.160 is hereby amended to read as follows:

353C.160 The court clerk, upon the filing of an application for the entry of summary judgment which complies with the requirements set forth in NRS 353C.150, shall forthwith enter a judgment ~~for the agency~~ against the debtor in the amount of the debt, plus any penalties and interest, as set forth in the certificate. The ~~agency~~ **State Controller** shall serve a copy of the judgment, together with a copy of the application and the certificate, upon the debtor against whom the judgment is entered, either by personal service or by mailing a copy to the last known address of the debtor. ~~as it appears in the records of the agency~~

Sec. 15. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, ~~an agency~~ **the State Controller** may, within 4 years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~{agency}~~ *State Controller*;

(c) That the ~~{agency}~~ *State Controller* has complied with all procedures required by law for determining the amount of the debt; and

(d) That the ~~{agency}~~ *State Controller* has notified the debtor in accordance with subsection 2.

2. ~~{An agency that intends to file a certificate of liability pursuant to this section}~~ *The State Controller* shall, not less than 15 days before the date on which ~~{the agency}~~ *he* intends to file the certificate, notify the debtor of ~~{its}~~ *his* intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~{}~~ *to which the debt is owed*, the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for 5 years after the date of recording unless sooner released or otherwise discharged.

4. Within 5 years after the date of the recording of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for 5 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 16. NRS 353C.190 is hereby amended to read as follows:

353C.190 1. The State Controller may ~~{, to the extent that resources are available,}~~ offset any amount due an agency from a debtor against any amount owing to that debtor by any agency, regardless of whether the agency which owes the amount is the same agency to which the debtor owes the debt. Whenever the combined amount owing to a debtor by all agencies is insufficient to offset all the amounts due the agencies from the debtor, the State Controller shall allocate the amount available from the debtor among the agencies in such a manner as the State Controller determines is appropriate.

2. If a debtor who owes a debt to an agency has a claim against that agency or another agency and refuses or neglects to file his claim with the agency within a reasonable time, the ~~{head of the agency to which the debtor owes the debt}~~ *State Controller* may file the claim on behalf of the debtor. If the State Controller ~~{approves}~~ *files* the claim, it has the same force and effect as though filed by the debtor. The amount due the debtor from the agency is the net amount otherwise owing to the debtor after any offset as provided in this section.

3. The State Controller shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, the manner in which offsets will be allocated among agencies.

Sec. 17. NRS 353C.195 is hereby amended to read as follows:

353C.195 *Except as otherwise provided in this section or by a specific statute ~~{}~~ or federal law:*

1. The State Controller ~~{may, if requested by any state agency,}~~ *shall* act as the collection agent for ~~{that}~~ *each* agency.

2. ~~{If the State Controller acts as the collection agent for an agency, the agency may}~~ *An agency shall* coordinate all its debt collection efforts through the

State Controller ~~including, without limitation, requesting the State Controller to prepare and send to a debtor the notice required pursuant to section 3 of this act.~~

3. ~~An~~ Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than

~~60 days after the debt becomes past due.~~ 60

~~(b) If the debtor has requested an administrative hearing pursuant to section 3 of this act to contest the existence or amount of the debt and has obtained the final decision of the agency, 10 days after the exhaustion of any administrative remedies provided pursuant to chapter 233B of NRS.~~

~~4. The State Controller shall charge and collect from an agency a fee of \$10 for each debt assigned to him by the agency for collection.~~

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or

(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect the debt.

Sec. 18. NRS 353C.200 is hereby amended to read as follows:

353C.200 1. Except as otherwise provided in subsection 2, if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller may enter into a contract with a private debt collector or any other person for the assignment of the collection of ~~the~~ the debt if the ~~agency;~~ State Controller;

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the ~~agency;~~ State Controller 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;~~ debtor;

1 (1) *Pays the debt in full; or*
2 (2) *Enters into an agreement, pursuant to NRS 353C.130, for the*
3 *payment of the debt on an installment basis.*

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

7 ~~3.}~~ A contract for the assignment of the collection of a debt may provide for:

8 (a) Payment by the ~~{agency}~~ *State Controller* to the private debt collector or
9 other person of the costs of collection and fees for collecting the debt; or

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

12 ~~{4.} 3. Any contract entered into pursuant to this section is subject to~~
13 ~~approval by the {Director of the Department of Administration and the State~~
14 ~~Controller.} {Attorney General.}~~

15 Sec. 19. NRS 353C.210 is hereby amended to read as follows:

16 353C.210 1. Notwithstanding any specific statute to the contrary, ~~{an~~
17 ~~agency to which a debt is owed}~~ *the State Controller* may, in addition to any other
18 remedy provided for in this chapter, give notice of the amount of ~~{the}~~ *a debt owed*
19 *to this State* and a demand to transmit to any person, including, without limitation,
20 any officer, agency or political subdivision of this State, who has in his possession
21 or under his control any credits or other personal property belonging to the debtor
22 ~~{}~~ or who owes any debts to the debtor that remain unpaid. The notice and demand
23 to transmit must be delivered personally or by certified or registered mail:

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

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

27 2. If such notice is given to an officer or agency of this State, the notice must
28 be delivered before the ~~{agency which sent the notice}~~ *State Controller* may file a
29 claim ~~{with the State Controller}~~ pursuant to NRS 353C.190 on behalf of the
30 debtor.

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

38 4. Except as otherwise provided by specific statute, a person who receives a
39 demand to transmit pursuant to this section shall not thereafter transfer or otherwise
40 dispose of the credits or other personal property of, or debts owed to, the person
41 who is the subject of the demand to transmit without the consent of the ~~{agency~~
42 ~~which sent the demand to transmit.}~~ *State Controller.*

43 5. Except as otherwise provided by specific statute, a person who receives
44 ~~{from an agency}~~ a demand to transmit pursuant to this section shall, within 10 days
45 thereafter, inform the ~~{agency}~~ *State Controller* of, and transmit to the ~~{agency}~~
46 *State Controller* within the time and in the manner requested by the ~~{agency.}~~ *State*
47 *Controller*, all credits or other personal property in his possession or control that
48 belong to, and all debts that he owes to, the person who is the subject of the demand
49 to transmit. Except as otherwise provided in subsection 6, no further notice is
50 required to be served on such persons.

51 6. Except as otherwise provided by specific statute, if the property of the
52 debtor consists of a series of payments owed to him, the person who owes or
53 controls the payments shall transmit the payments to the ~~{agency which sent the~~

1 ~~demand to transmit~~ *State Controller* until otherwise notified by the ~~[agency]~~ *State*
2 *Controller*. If the debt of the debtor is not paid within 1 year after the date on which
3 the ~~[agency]~~ *State Controller* issued the original demand to transmit, the ~~[agency]~~
4 *State Controller* shall:

5 (a) Issue another demand to transmit to the person responsible for making the
6 payments that informs him to continue transmitting payments to the ~~[agency]~~ *State*
7 *Controller*; or

8 (b) Notify the person that his duty to transmit the payments to the ~~[agency]~~
9 *State Controller* has ceased.

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

16 8. If any person to whom ~~[an agency]~~ *the State Controller* delivers a notice
17 and demand to transmit transfers or otherwise disposes of any property or debts
18 required by this chapter to be transmitted to the ~~[agency]~~ *State Controller*, the
19 person is, to the extent of the value of the property or the amount of the debts so
20 transferred or disposed of, liable to the ~~[agency]~~ *State Controller* for any portion of
21 the debt that the ~~[agency]~~ *State Controller* is unable to collect from the debtor
22 solely by reason of the transfer or other disposition of the property or debt.

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

29 **Sec. 20.** NRS 353C.220 is hereby amended to read as follows:

30 353C.220 1. If ~~[an agency]~~ *the State Controller* determines that it is
31 impossible or impractical to collect a debt, ~~[the agency]~~ *he* may request the State
32 Board of Examiners to designate the debt as a bad debt. The State Board of
33 Examiners, by an affirmative vote of the majority of the members of the Board,
34 may designate the debt as a bad debt if the Board is satisfied that the collection of
35 the debt is impossible or impractical. If the debt is not more than \$50, the State
36 Board of Examiners may delegate to its Clerk the authority to designate the debt as
37 a bad debt. ~~[An agency that is aggrieved by]~~ *The State Controller may appeal* a
38 denial of a request to designate the debt as a bad debt by the Clerk ~~[may appeal that~~
39 ~~denial]~~ to the State Board of Examiners.

40 2. Upon the designation of a debt as a bad debt pursuant to this section, the
41 State Board of Examiners or its Clerk shall immediately notify the State Controller
42 thereof. Upon receiving the notification, the State Controller shall direct the
43 removal of the debt from the books of account of the State of Nevada. A bad debt
44 that is removed pursuant to this section remains a legal and binding obligation
45 owed by the debtor to the State of Nevada.

46 3. ~~[If resources are available, the]~~ *The* State Controller shall keep a master
47 file of all debts that are designated as bad debts pursuant to this section. ~~[If such a~~
48 ~~file is established and maintained, for]~~ *For* each such debt, the State Controller
49 shall record the name of the debtor, the amount of the debt, the date on which the
50 debt was incurred and the date on which it was removed from the records and
51 books of account of ~~[the agency or]~~ the State of Nevada, and any other information
52 concerning the debt that the State Controller determines is necessary.

1 **Sec. 21.** NRS 11.255 is hereby amended to read as follows:

2 11.255 1. ~~{The}~~ *Except as otherwise provided in subsection 2, the*
3 provisions of this chapter ~~{concerning actions other than for the recovery of real~~
4 ~~property shall}~~ *do not* apply to actions *which accrue on or after the effective date*
5 *of this act that are* brought in the name of the State ~~{}~~ or for the benefit of the State
6 ~~. {, in the same manner as to actions by private individuals.}~~

7 2. ~~{Except as provided in}~~ *The provisions of* NRS 11.030 and 11.040 ~~{, there~~
8 ~~shall be no limitation of}~~ *apply to* actions brought in the name of the State, or for
9 the benefit of the State, for the recovery of real property.

10 **Sec. 21.3. NRS 616C.220 is hereby amended to read as follows:**

11 616C.220 1. The Division shall designate one:

12 (a) Third-party administrator who has a valid certificate issued by the
13 Commissioner pursuant to NRS 683A.085; or

14 (b) Insurer, other than a self-insured employer or association of self-insured
15 public or private employers,

16 ↳ to administer claims against the uninsured employers' claim account. The
17 designation must be made pursuant to reasonable competitive bidding procedures
18 established by the Administrator.

19 2. Except as otherwise provided in this subsection, an employee may receive
20 compensation from the uninsured employers' claim account if:

21 (a) He was hired in this State or he is regularly employed in this State;

22 (b) He suffers an accident or injury which arises out of and in the course of his
23 employment:

24 (1) In this State; or

25 (2) While on temporary assignment outside the State for not more than 12
26 months;

27 (c) He files a claim for compensation with the Division; and

28 (d) He makes an irrevocable assignment to the Division of a right to be
29 subrogated to the rights of the injured employee pursuant to NRS 616C.215.

30 ↳ An employee who suffers an accident or injury while on temporary assignment
31 outside the State is not eligible to receive compensation from the uninsured
32 employers' claim account unless he has been denied workers' compensation in the
33 state in which the accident or injury occurred.

34 3. If the Division receives a claim pursuant to subsection 2, the Division shall
35 immediately notify the employer of the claim.

36 4. For the purposes of this section, the employer has the burden of proving
37 that he provided mandatory industrial insurance coverage for the employee or that
38 he was not required to maintain industrial insurance for the employee.

39 5. Any employer who has failed to provide mandatory coverage required by
40 the provisions of chapters 616A to 616D, inclusive, of NRS is liable for all
41 payments made on his behalf, including any benefits, administrative costs or
42 attorney's fees paid from the uninsured employers' claim account or incurred by the
43 Division.

44 6. The Division:

45 (a) May recover from the employer the payments made by the Division that are
46 described in subsection 5 and any accrued interest by bringing a civil action in a
47 court of competent jurisdiction. *For the purposes of this paragraph, the payments*
48 *made by the Division that are described in subsection 5 are presumed to be:*

49 *(1) Justified by the circumstances of the claim;*

50 *(2) Made in accordance with applicable law; and*

51 *(3) Reasonable and necessary.*

52 (b) In any civil action brought against the employer, is not required to prove
53 that negligent conduct by the employer was the cause of the employee's injury.

1 (c) May enter into a contract with any person to assist in the collection of any
2 liability of an uninsured employer.

3 (d) In lieu of a civil action, may enter into an agreement or settlement
4 regarding the collection of any liability of an uninsured employer.

5 7. The Division shall:

6 (a) Determine whether the employer was insured within 30 days after receiving
7 notice of the claim from the employee.

8 (b) Assign the claim to the third-party administrator or insurer designated
9 pursuant to subsection 1 for administration and payment of compensation.

10 ➤ Upon determining whether the claim is accepted or denied, the designated third-
11 party administrator or insurer shall notify the injured employee, the named
12 employer and the Division of its determination.

13 8. Upon demonstration of the:

14 (a) Costs incurred by the designated third-party administrator or insurer to
15 administer the claim or pay compensation to the injured employee; or

16 (b) Amount that the designated third-party administrator or insurer will pay for
17 administrative expenses or compensation to the injured employee and that such
18 amounts are justified by the circumstances of the claim,

19 ➤ the Division shall authorize payment from the uninsured employers' claim
20 account.

21 9. Any party aggrieved by a determination made by the Division regarding
22 the assignment of any claim made pursuant to this section may appeal that
23 determination by filing a notice of appeal with an appeals officer within 30 days
24 after the determination is rendered. The provisions of NRS 616C.345 to 616C.385,
25 inclusive, apply to an appeal filed pursuant to this subsection.

26 10. Any party aggrieved by a determination to accept or to deny any claim
27 made pursuant to this section or by a determination to pay or to deny the payment
28 of compensation regarding any claim made pursuant to this section may appeal that
29 determination, within 70 days after the determination is rendered, to the Hearings
30 Division of the Department of Administration in the manner provided by NRS
31 616C.305 and 616C.315.

32 11. All insurers shall bear a proportionate amount of a claim made pursuant to
33 chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate
34 amount of any collection made pursuant to this section as an offset against future
35 liabilities.

36 12. An uninsured employer is liable for the interest on any amount paid on his
37 claims from the Uninsured Employers' Claim Account. The interest must be
38 calculated at a rate equal to the prime rate at the largest bank in Nevada, as
39 ascertained by the Commissioner of Financial Institutions, on January 1 or July 1,
40 as the case may be, immediately preceding the date of the claim, plus 3 percent,
41 compounded monthly, from the date the claim is paid from the account until
42 payment is received by the Division from the employer.

43 13. Attorney's fees recoverable by the Division pursuant to this section must
44 be:

45 (a) If a private attorney is retained by the Division, paid at the usual and
46 customary rate for that attorney.

47 (b) If the attorney is an employee of the Division, paid at the rate established
48 by regulations adopted by the Division.

49 ➤ Any money collected must be deposited to the Uninsured Employers' Claim
50 Account.

51 14. In addition to any other liabilities provided for in this section, the
52 Administrator may impose an administrative fine of not more than \$10,000 against

an employer if the employer fails to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 21.7. NRS 617.401 is hereby amended to read as follows:

617.401 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

to administer claims against the Uninsured Employers' Claim Account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the Uninsured Employers' Claim Account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He contracts an occupational disease that arose out of and in the course of employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the employee pursuant to NRS 616C.215.

➤ An employee who contracts an occupational disease that arose out of and in the course of employment while on temporary assignment outside the State is not entitled to receive compensation from the Uninsured Employers' Claim Account unless he has been denied workers' compensation in the state in which the disease was contracted.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory coverage for occupational diseases for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of this chapter is liable for all payments made on his behalf, including, but not limited to, any benefits, administrative costs or attorney's fees paid from the Uninsured Employers' Claim Account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. For the purposes of this paragraph, the payments

made by the Division that are described in subsection 5 are presumed to be:

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➤ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➤ the Division shall authorize payment from the Uninsured Employers' Claim Account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the Account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➤ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than \$10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may

bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 22. A regulation jointly adopted by the Director of the Department of Administration and the Attorney General pursuant to NRS 353C.110 remains in effect until it is amended or repealed by the State Controller pursuant to the amendatory provisions of this act.

Sec. 23. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009, for all other purposes.