

SENATE BILL NO. 81—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE CONTROLLER)

PREFILED DECEMBER 15, 2010

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to state financial administration. (BDR 31-396)

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 financial administration; requiring professional and occupational licensing agencies to deny the issuance or renewal of licenses possessed by certain persons who owe debts to the State; requiring the State Controller to develop and operate with financial institutions a data-match system for the collection of certain debts owed to state agencies; revising the statutes of limitation for the State Controller to take action regarding the collection of certain debts owed to state agencies; providing for the electronic payment of certain payments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an agency of this State to refuse to conduct a transaction with a person who owes a debt to an agency until the debt is paid or the person enters into an agreement to pay the debt in installments. (NRS 353C.128) **Section 2** of this bill: (1) requires the State Controller to establish a list to notify all professional and occupation licensing authorities in this State that a person who is applying for the issuance or renewal of a license, certification, registration, permit or other similar authorization which grants the person authority to engage in a profession or occupation has failed to pay a debt owed to the State; and (2) provides that a licensing authority shall not issue or renew such a license, certification, registration, permit or authorization to a person whose name is included on the list.

Section 3 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts. The State Controller and financial institutions located in this State may use the system developed for the



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collection of child support to fulfill the requirements of **section 3**. Financial institutions must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing an outstanding debt to the State. Financial institutions are then required to encumber assets held in the financial institution by the debtors to pay their debts.

Sections 4-7 of this bill amend the statutes of limitation for when the State Controller may take certain action to collect debts owed to the State.

Section 8 of this bill requires the State Controller to pay accounts payable electronically unless doing so would cause undue hardship to the payee.

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 and 3 of this act.

Sec. 2. 1. *The State Controller shall:*

(a) Establish and maintain a list of persons who owe a debt to an agency; and

(b) Make the list available to all licensing agencies.

2. A licensing agency shall not issue a license to any person or renew the license of any person unless and until the licensing agency confirms that the name of the person is not included on the list established by the State Controller pursuant to subsection 1.

3. The State Controller shall adopt such regulations as are necessary or advisable to carry out the provisions of this section.

4. As used in this section:

(a) "License" means any license, certification, registration, permit or other similar authorization that grants a person the authority to engage in a profession or occupation in this State.

(b) "Licensing agency" means any agency that issues or renews any license.

Sec. 3. 1. *The State Controller shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible. If a financial institution has developed and operated a system for matching data pursuant to NRS 425.460, and such a system is approved by the State Controller, the system satisfies the requirements of this section.*

2. *In addition to any other remedy provided for in this chapter, the State Controller may use the system for matching data developed and operated pursuant to subsection 1 to collect a debt, plus any applicable penalties and interest.*



1 3. A financial institution in this State shall:

2 (a) Cooperate with the State Controller in carrying out the
3 provisions of subsection 1.

4 (b) Use the system to provide to the State Controller for each
5 calendar quarter the name, address of record, social security
6 number or other number assigned for taxpayer identification of
7 each person who maintains an account at the financial institution,
8 as identified by the State Controller by name and social security
9 number or other number assigned for taxpayer identification.

10 (c) In response to the receipt from the State Controller of
11 notification of debt that a person owes the State, encumber all
12 assets of the person held by the financial institution on behalf of
13 the State Controller and surrender those assets to the State
14 Controller. A financial institution is not required to encumber or
15 surrender any assets received by the financial institution on behalf
16 of the person after the financial institution received the notice of
17 the debt from the State Controller.

18 4. A financial institution may not be held liable in any civil or
19 criminal action for:

20 (a) Any disclosure of information to the State Controller
21 pursuant to this section.

22 (b) Encumbering or surrendering any assets held by the
23 financial institution pursuant to this section.

24 (c) Any other action taken in good faith to comply with the
25 requirements of this section.

26 5. If a court issues an order to return to a person any assets
27 surrendered by a financial institution pursuant to subsection 3, the
28 State Controller is not liable to the person for any of those assets
29 that have been provided to the State Controller in accordance with
30 the order for the payment of a debt.

31 6. All information provided to the State Controller by a
32 financial institution pursuant to this section is confidential and
33 may only be used by the State Controller for use in the collection
34 of a debt owed to the State.

35 7. As used in this section, "financial institution" has the
36 meaning ascribed to it in NRS 239A.030.

37 **Sec. 4.** NRS 353C.140 is hereby amended to read as follows:

38 353C.140 If a person has not paid a debt that the person owes
39 to an agency, the Attorney General, upon the request of the State
40 Controller:

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

43 2. If the action is a small claim subject to chapter 73 of NRS,
44 may bring an action in a court of competent jurisdiction,



1 ➡ on behalf of this state to collect the debt, plus any applicable
2 penalties and interest. The action must be brought not later than ~~4~~
3 6 years after the date on which the debt became due or within ~~5~~ 6
4 years after the date on which a certificate of liability was last
5 recorded pursuant to NRS 353C.180, as appropriate.

6 **Sec. 5.** NRS 353C.170 is hereby amended to read as follows:

7 353C.170 1. An abstract of the judgment entered pursuant to
8 NRS 353C.160, or a copy thereof, may be recorded in the office of
9 the county recorder of any county.

10 2. From the time of its recordation, the judgment becomes a
11 lien upon all real and personal property situated in the county that is
12 owned by the judgment debtor, or which the debtor may afterward
13 acquire, until the lien expires. The lien has the force, effect and
14 priority of a judgment lien and continues for ~~5~~ 6 years after the
15 date of the judgment so entered by the court clerk unless sooner
16 released or otherwise discharged.

17 3. Within ~~5~~ 6 years after the date of the recording of the
18 judgment or within ~~5~~ 6 years after the date of the last extension of
19 the lien pursuant to this subsection, the lien may be extended by
20 recording an affidavit of renewal in the office of the county
21 recorder. From the date of recording, the lien is extended for ~~5~~ 6
22 years to all real and personal property situated in the county that is
23 owned by the judgment debtor or acquired by the judgment debtor
24 afterwards, unless the lien is sooner released or otherwise
25 discharged.

26 **Sec. 6.** NRS 353C.180 is hereby amended to read as follows:

27 353C.180 1. In addition to any other remedy provided for in
28 this chapter, the State Controller may, within ~~4~~ 6 years after the
29 date that a debt becomes due, record a certificate of liability in the
30 office of a county recorder which states:

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

33 (b) The name and address of the debtor, as the name and address
34 of the debtor appear on the records of the State Controller;

35 (c) That the State Controller has complied with all procedures
36 required by law for determining the amount of the debt; and

37 (d) That the State Controller has notified the debtor in
38 accordance with subsection 2.

39 2. The State Controller shall, not less than 15 days before
40 the date on which he or she intends to file the certificate, notify the
41 debtor of the State Controller's intention to file the certificate. The
42 notification must be sent by certified mail to the last known address
43 of the debtor and must include the name of the agency to which the
44 debt is owed, the amount sought to be recovered and the date on
45 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~~ 6 years after the date of recording unless sooner released or otherwise discharged.

4. Within ~~5~~ 6 years after the date of the recording of the certificate or within ~~5~~ 6 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~~ 6 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. 7. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, the State Controller may, in addition to any other remedy provided for in this chapter, give notice of the amount of a debt owed to this State and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this state, who has in his or her possession or under his or her 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~~ 6 years after the debt became due; or

(b) Not later than 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 State Controller may file a claim 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.



1 4. Except as otherwise provided by specific statute, a person
2 who receives a demand to transmit pursuant to this section shall not
3 thereafter transfer or otherwise dispose of the credits or other
4 personal property of, or debts owed to, the person who is the subject
5 of the demand to transmit without the consent of the State
6 Controller.

7 5. Except as otherwise provided by specific statute, a person
8 who receives a demand to transmit pursuant to this section shall,
9 within 10 days thereafter, inform the State Controller of, and
10 transmit to the State Controller within the time and in the manner
11 requested by the State Controller, all credits or other personal
12 property in his or her possession or control that belong to, and all
13 debts that he or she owes to, the person who is the subject of the
14 demand to transmit. Except as otherwise provided in subsection 6,
15 no further notice is required to be served on such persons.

16 6. Except as otherwise provided by specific statute, if the
17 property of the debtor consists of a series of payments owed to the
18 debtor, the person who owes or controls the payments shall transmit
19 the payments to the State Controller until otherwise notified by the
20 State Controller. If the debt of the debtor is not paid within 1 year
21 after the date on which the State Controller issued the original
22 demand to transmit, the State Controller shall:

23 (a) Issue another demand to transmit to the person responsible
24 for making the payments that informs the person to continue
25 transmitting payments to the State Controller; or

26 (b) Notify the person that his or her duty to transmit the
27 payments to the State Controller has ceased.

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

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

43 9. A debtor who owes a debt to an agency for which the State
44 Controller delivers a notice and demand to transmit concerning the
45 debtor pursuant to this section is entitled to an administrative



1 hearing before that agency to challenge the collection of the debt
2 pursuant to the demand to transmit. Each agency may adopt such
3 regulations as are necessary to provide an administrative hearing for
4 the purposes of this subsection.

5 **Sec. 8.** Chapter 227 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 *1. Except as otherwise provided in subsection 2, the State*
8 *Controller shall pay an account payable electronically.*

9 *2. Upon application of a payee or the payee's representative,*
10 *the State Controller may waive the requirements of subsection 1 if*
11 *the State Controller determines that the electronic payment of an*
12 *account payable would cause the payee to suffer undue hardship*
13 *or extreme inconvenience.*

14 *3. The State Controller may adopt such regulations as are*
15 *necessary or advisable to carry out the provisions of this section.*

16 **Sec. 9.** NRS 227.200 is hereby amended to read as follows:

17 227.200 The State Controller shall:

18 1. Draw a warrant in favor of any person or governmental
19 payee certified by an agency of state government to receive money
20 from the treasury and deliver or mail the warrant to the State
21 Treasurer who shall sign the warrant and:

22 (a) ~~[Deliver or mail the countersigned warrant.]~~ *Except as*
23 *otherwise provided in section 8 of this act,* if it is for *payment of* an
24 account payable, ~~[directly to]~~ *electronically pay* the payee or the
25 payee's representative;

26 (b) If it is for payment of an employee:

27 (1) Deliver or mail the warrant to the employee or to the
28 appropriate state agency for distribution; or

29 (2) Deposit the warrant to the credit of the employee by
30 direct deposit at a bank or credit union in which the employee has an
31 account, if the employee has authorized the direct deposit; or

32 (c) Deposit the warrant to the credit of the payee through a funds
33 transfer.

34 2. Keep a warrant register, in which the State Controller shall
35 enter all warrants drawn by him or her. The arrangement of this
36 book must be such as to show the bill and warrant number, the
37 amount, out of which fund the warrants are payable, and a
38 distribution of the warrants under the various appropriations.

39 3. Credit the State Treasurer with all warrants paid.

40 **Sec. 10.** NRS 239A.070 is hereby amended to read as follows:

41 239A.070 This chapter does not apply to any subpoena issued
42 pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or
43 prohibit:



1 1. Dissemination of any financial information which is not
2 identified with or identifiable as being derived from the financial
3 records of a particular customer.

4 2. The Attorney General, *State Controller*, district attorney,
5 Department of Taxation, Director of the Department of Health and
6 Human Services, Administrator of the Securities Division of the
7 Office of the Secretary of State, public administrator, sheriff or a
8 police department from requesting of a financial institution, and the
9 institution from responding to the request, as to whether a person
10 has an account or accounts with that financial institution and, if so,
11 any identifying numbers of the account or accounts.

12 3. A financial institution, in its discretion, from initiating
13 contact with and thereafter communicating with and disclosing the
14 financial records of a customer to appropriate governmental
15 agencies concerning a suspected violation of any law.

16 4. Disclosure of the financial records of a customer incidental
17 to a transaction in the normal course of business of the financial
18 institution if the director, officer, employee or agent of the financial
19 institution who makes or authorizes the disclosure has no reasonable
20 cause to believe that such records will be used by a governmental
21 agency in connection with an investigation of the customer.

22 5. A financial institution from notifying a customer of the
23 receipt of a subpoena or a search warrant to obtain the customer's
24 financial records, except when ordered by a court to withhold such
25 notification.

26 6. The examination by or disclosure to any governmental
27 regulatory agency of financial records which relate solely to the
28 exercise of its regulatory function if the agency is specifically
29 authorized by law to examine, audit or require reports of financial
30 records of financial institutions.

31 7. The disclosure to any governmental agency of any financial
32 information or records whose disclosure to that particular agency is
33 required by the tax laws of this State.

34 8. The disclosure of any information pursuant to NRS 425.393,
35 425.400 or 425.460 ~~[A]~~ *or section 3 of this act.*

36 9. A governmental agency from obtaining a credit report or
37 consumer credit report from anyone other than a financial
38 institution.

39 **Sec. 11.** NRS 333.450 is hereby amended to read as follows:

40 333.450 1. ~~[A]~~ *Except as otherwise provided in section 8*
41 *of this act*, claims for supplies, materials, equipment and services
42 purchased pursuant to the provisions of this chapter must, when
43 approved by the Chief, be paid in the same manner as other claims
44 against the State are required to be paid.



1 2. The Chief shall annually assess each using agency a fee for
2 the procurement and inventory services provided by the Purchasing
3 Division to the using agency. The fee must be based on the using
4 agency's use of the procurement and inventory services of the
5 Purchasing Division during preceding years. The Chief shall adjust
6 the formula for calculating the fee each biennium.

7 3. If an agency is not a using agency, the Chief shall assess a
8 fee of not more than the cost to the Division to process the order for
9 the agency.

10 4. The Chief may adopt regulations to carry out the provisions
11 of this section.

12 **Sec. 12.** This act becomes effective upon passage and
13 approval.

