



**OFFICE OF THE
STATE CONTROLLER**

Minutes of the August 4, 2014, hearing for the adoption of regulations held at the Legislative Building, 401 South Carson Street, Room 3137, Carson City, Nevada with videoconferencing to Room 4406 of the Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada

I. Call to Order. Controller Kim Wallin called the August 4, 2014, hearing to order at 9:00 AM.

Agency staff members present:

Haydee Meeker, Chief Accountant, Debt Collection
Michelle Mann, Executive Assistant to Controller Wallin
Jennifer Chisel, Deputy Attorney General

Other Attendees: See attached sign-in sheet.

II. Public Comment. None.

III. Discussion and Adoption of Proposed Regulations.

Jennifer Chisel, Deputy Attorney General, will provide an overview of the regulations.

Good morning, I'm Jennifer Chisel, Deputy Attorney General for the Controller's Office. The Controller held a regulation workshop on March 18, 2014, to discuss these proposed regulations and to solicit public comment. The Controller considered the comments that were received then submitted the regulations to the Legislative Counsel Bureau without further revision.

The version of the regulations presented today, comes from the LCB after their review. Although the LCB version differs from the Controller's version presented at the earlier workshop, generally the substantive provision of the regulations remains intact but they were reformatted per LCB standards. Additionally, the Controller's version contains instructive language and language that duplicated existing statute which was removed by the LCB. The instructive language will be incorporated into policies and procedures established by the Controller's Office.

During the 2013 Legislative Session the Controller sponsored Senate Bill 21 which contains several provisions to assist the debt collection efforts of the Controller Office. The proposed regulations under consideration today specifically relate to section 4 of Senate Bill 21 which was codified as NRS 353C.1965 and it relates to professional and occupational licensees who may owe a debt to the State. These regulations provide additional guidance to licensees who owe a debt to the State and to licensing agencies as well as outlining additional duties of the Controller's Office.

The statute requires a licensing agency to provide a list of its licensees to the Controller's Office which includes the name, address, social security number or tax identification number of the licensee. Licensing agencies are also required to ask if the licensee has a Nevada business license and to provide the Nevada business license information to the Controller's Office, if applicable.

The Controller will compare the list of debtors maintained by her office with the list of licensees to determine whether a licensee owes a debt to the State. If a licensee is on the debtor list, the Controller will send notice to the licensee regarding the debt. The statute provides the licensee the right to request a hearing before the Controller to determine the validity of the debt. If the licensee pays the debt or complies with a payment arrangement, the license will not be impacted.

If a licensee fails to respond to the notice or fails to satisfy the debt, the Controller will notify the licensing agency and advise that the license should not be renewed at the next renewal cycle.

Now I will go through the LCB version of the proposed regulations and as we go, I will be happy to answer any questions.

Sections 2 through 5 provide definitions of terms used throughout the regulations, definition of hearing, and definition of respondent.

Section 6 authorizes the Controller to designate the duties of these regulations to another member of her staff.

Section 7 sets forth the procedures for the licensing agencies to submit their list of licensees to the Controller. The information must be submitted electronically in the format and manner prescribed by the Controller's Office. The specific format and manner have been established and instructions are available on the Controller's website. There is also a requirement that licensing agencies provide current email addresses to the Controller's Office for the purpose of correspondence.

Section 8 this discusses how the Controller will provide notice to a licensee or to the licensing agencies. Any notices required to be sent to the licensee will be

sent by certified mail and notices sent to a licensing agency will be sent by electronic mail. If the Controller determines that a licensee owes a debt, the Controller will send notice to the licensee and the licensee has thirty days to respond to the notice.

Section 9 provides the procedures the Controller must follow if the licensee fails to timely comply with the notice of debt sent by the Controller. After a licensee's failure to respond to the notice, failure to satisfy the debt or enter into a payment plan, the debt will be deemed valid and a determination will be issued by the Controller and sent to the licensee. Additionally, notice will be sent to the licensing agency.

Section 10 provides for a licensee to work with the Controller to settle the debt at any time and the Controller will notify the licensing agency within 10 days of any settlement.

NRS 353C.1965 provides a licensee with the right to request a hearing to determine the validity of the debt. Sections 11 through 29 outline the hearing process. Many of these sections were patterned after the established regulations for the Controller's Office debt offset hearings, although some were tailored to the licensee debtors.

Section 11 is a general statement of the hearing procedures outlined in the regulations.

Section 12 specifies that NRS 353C.1965 does not provide licensee debtors additional rights to contest the existence of the debt in addition to those already afforded the debtor by the agency to which the money is owed.

Section 13 requires a licensee to request a hearing in writing.

Section 14 provides for a prehearing conference to settle issues before a formal hearing. The parties may participate by phone and are directed to exchange statements of the issues, and it provides procedures if some or all of the issues are resolved.

Section 15 requires that a determination of the validity of the debt must include information about the existence of the debt, the amount of the debt and the balanced owed on the debt.

Section 16 establishes the scope of the hearing and addresses concerns that were raised by participants of the SB21 workshops last summer. Specifically, if the debt arises from a judgment or administrative order, the debt is deemed valid and the scope of the hearing is limited to a determination of a balance owed. The Controller does not intend for this to be an opportunity for the licensee to reopen a previously adjudicated case. For debts that have not been adjudicated, the

scope of the hearing is determining the existence and the amount of the debt and the current balance due.

Section 17 outlines the notice of a hearing must be served and the location of the hearing.

Section 18 requires a pre-hearing statement to be filed by each party 5 days prior to the hearing. The statement must contain a statement of issues to be presented, a list of witnesses and evidence.

Sections 19 and 20 deal with pleadings and documentary evidence and requires that testimony be under oath.

Section 21 relates to hearing transcripts.

Section 22 requires ethical and courteous conduct at the hearing.

Sections 23 and 24 discuss the rights of the parties during the hearing and the manner in which they appear.

Section 25 relates to recesses, continuances and a parties failure to appear.

Sections 26 through 28 discuss the burden of proof. Evidentiary standards of the hearing and allows the Controller to take official notice of certain matters.

Section 29 requires the Controller to prepare findings of fact, conclusions of law and a decision at the conclusion of the hearing.

I would be happy to take any questions at this time.

There were no questions or comments from members of the audience.

Controller Wallin: we will consider the hearing closed and move on to public comment.

IV. Public Comment. None.

Controller Wallin: with no comments, I will adopt the proposed regulations and we will send this to LCB to be finalized. Thank you for coming.

V. Adjournment.

SB21 Adoption Hearing 8/4/14

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