



**OFFICE OF THE
STATE CONTROLLER**

Minutes of the March 18, 2014, Regulation Workshop held at Legislative Building, 401 South Carson Street, Room 3137, Carson City, Nevada with video conferencing to Room 4412 of the Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada.

- I. Call to Order.** Controller Kim Wallin called the March 18, 2014, workshop to order at 9:00 AM.

At this time I want to call the Public Workshop to solicit comments on the Controller's Office proposed regulations for NRS 353C.1965 which relates to professional and occupational license holders who owe a debt to the State of Nevada to order. I am Kim Wallin, Nevada State Controller. Can you hear us down in Las Vegas? If you need anything down there Erika Zepeda from my office should have left you her number.

I want to thank everyone for coming today and we want to hear from you as we work on this regulation.

With me today is:

Jennifer Chisel, Deputy Attorney General
David Loomis, Assistant Controller
Haydee Meeker, Chief Accountant, Debt Collection.

Other Attendees: See attached sign-in sheet

- II. Public Comment.** None.

- III. Discussion regarding Nevada business license reporting requirements pursuant to Senate Bill 21 of the 2013 Legislative Session.**

Today we will be collecting your comments and taking them under advisement and then we will incorporate those suggestions and then send the proposed regulations to the legislature for their review and comments. Later we will hold another public hearing to adopt those regulations.

I want to give you some background on why our office proposed Senate Bill 21 now called NRS 353C.1965. Nevada as you all know is struggling with not having enough revenues and one of the things that I found is that we are doing a very good job collecting what is owed to us.

NRS 353C.1965 gives the Controller's Office another tool that we can, how would you say, "incentivizes people to pay their debt". Allowing licensing agencies to not renew a professional or occupational license if someone owes a debt to the State will give people a reason to pay their bills. In fact I want to thank some of the licensing agencies who have been telling their licensees that if they owe the State of Nevada money they will not be able to renew their license and I have to tell you that we have had quite a few call us up and say how can I pay so I can get my license. So thank you to those of you who have been proactive. It's working.

To continue to assist everyone we will be putting a section on our website with commonly asked questions and answers, templates for sending the licensee list to us and the chart showing what statutes apply specifically to your entity.

Jennifer, do you want to add anything? No.

I am going to take item 4 out of order and start with it and then we will move to item 3. There have been a lot of questions about the business license section in the statute so I want to spend some time trying to clarify what the requirement is and what your responsibility is as a licensing agency or board.

All we are asking the licensing agencies and boards to do is ask the licensee if they have a Nevada business license, and if they do, what is the business license number?

This will add one more data field that will be included in your report. If a licensee does not have a license that field will be blank. The trigger for this report is whether or not someone has a Nevada business license, but that they have a professional or occupation license.

You do not have any responsibility to make sure that the licensee has a license or is telling the truth. That is going to be between the Secretary of State's office and the licensee. We will be forwarding the information to the Secretary of State's office and they will determine who should and should not have a license.

Now why are we doing this? It gets back to making sure that Nevada is collecting what is owed to us and that includes making sure that those doing business here in the State are properly licensed. We are being proactive because this will help the Secretary of State to do their job and eliminate the need for you to send multiple reports to multiple offices. The Controller's office will take on that responsibility in forwarding the information to the Secretary of State.

For the licensing agency, I recommend that you provide the Secretary of State's website address for Nevada Business licenses, <http://nvsos.gov/index.aspx?page=4> and this phone number, 775-684-5708 if your licensees have questions about a Nevada Business license.

Our office has already been sharing information with the Secretary of State's office. In fact our Vendor Services data base looks at the Secretary of State's data base when we are setting up vendors. We make sure that the business has provided a valid Nevada Business license to us. Why should we be paying vendors money if they won't even pay the proper licensing fees.

Are there any questions at this point?

Rebecca Garcia, Gaming Control Board, Enforcement Division: We register all of the gaming employees' who work in the casinos State wide. We understand that this pertains only to our renewal applications and not to our new applications? Is this correct? Yes.

We will be reporting this information as required on August 1st per the information that we were given. Per our reading, we understand that you only want those applicants information that do have a Nevada business license? The discussion this morning; it sounds like you want a report of everyone who comes through our system whether they say yes or no?

Controller Wallin: That is correct. All professional and occupational licenses will be reported to our office and we will run against our database of debtors. If they have a Nevada business license that field will be filled in.

Rebecca Garcia: You are only looking for renewal applicants, is that correct?

Controller Wallin: Yes.

Are there any other questions? None.

Let's go to item 3: the Review and Discussion of Proposed Regulations. I will have Jennifer Chisel our Deputy Attorney General lead this section and remember we will be asking for comments after each section.

IV. Review and Discussion of Proposed Regulations.

Jennifer Chisel, Deputy Attorney General for the Controller's Office. I will be going through the regulations today. First I'll explain where we are in the regulation process, then I'll explain the statute that is the basis for the proposed regulations, and finally I'll go through the proposed regulations section by section.

At this stage of the regulation process, these are the proposed regulations from the Controller's Office and they have not yet been submitted to the Legislative Counsel Bureau for review. After this workshop, the Controller will consider any comments and proposed changes and will decide whether or not to further revise the proposed regulations. The proposed regulations will then be sent to the LCB for review and once the LCB review is complete, the Controller's Office will schedule a regulation adoption hearing.

Next I'll explain the statutory basis for the proposed regulations. During the 2013 legislative session, the Controller sponsored Senate Bill 21 which contained several provisions to assist with the debt collection efforts of her office. As many of you know, the Controller's Office is responsible for collecting debts owed to the State and SB 21 provided additional debt collection tools.

The proposed regulations under consideration today relate specifically to section 4 of Senate Bill 21, which was codified as NRS 353C.1965. We have provided a copy of the statute in your packet today. These regulations provide additional guidance in the determination of whether a person who holds a professional or occupational license owes a debt of any kind to the state.

Before I discuss the proposed regulations, I think it might be helpful to provide an overview of the new procedures in NRS 353C.1965 related to licensees who may owe a debt to the state. The statute requires a licensing agency to provide a list of its licensees to the Controller's Office, which includes the name, address, and social security number or tax id number. Licensing agencies are also required to ask licensees whether they have a Nevada business license and to provide the business license number to the Controller if applicable as the Controller discussed previously.

The Controller will compare the list of debtors maintained by her office with the lists of licensees to determine whether a licensee owes a debt to the state. If a licensee is also on the debtor list, the Controller will send notice to the licensee regarding the debt. The statute provides a 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 and the Controller will not contact the licensing agency regarding this. If the licensee fails to respond to the notice or refuses to settle the debt, the Controller will notify the licensing agency that the license shall not be renewed at the next renewal cycle.

With that overview of the statute, I'll briefly go through the proposed regulations which are broken down into three topic areas: definitions, procedures to provide notice and submit information, and the hearing procedures. After I describe a section, I will invite any comments or questions about that section.

Sections 2 through 7 are definitions of terms used in the proposed regulations. The definition of hearing, petitioner and respondent are set forth in the regulations and the definitions of license, licensee, and licensing agency are incorporated from NRS 353C.1965. Any comments/questions? None.

Sections 8 through 12 address procedures to provide notice and submit information. Section 8 sets forth the procedures for the licensing agencies to submit their lists of licensees to the Controller. The information must be submitted electronically, on the Excel template established by the Controller, using a secure transmission protocol. The Excel template and secure transmission instructions were provided to licensing agencies that attended the SB 21 workshops last summer and will be available on the Controller's website. Any comments/questions? None.

Section 9 discusses how the Controller will provide notice to a licensee or to licensing agencies. Any notices required to be sent to a licensee will be sent by certified mail and notices required to be sent to a licensing agency will be sent by electronic mail. There is also a requirement that licensing agencies provide current email addresses to the Controller's Office for purposes of correspondence. Any comments/questions? None.

As I explained with the statute, if the Controller determines that a licensee owes a debt, the Controller will send notice to the licensee.

Section 10 provides detailed procedures the Controller must follow if the licensee responds to the notice of debt by paying the debt in full or complying with a payment plan. Notice will not be sent to the licensing agency and the license will not be impacted. Any comments/questions? None.

Section 11 provides the procedures the Controller must follow if the licensee fails to respond to the notice of debt within 30 days: the Controller will determine if the debt is valid, notice of that determination is sent to the licensee, and notice is sent to the licensing agency. Any comments/questions? None.

Section 12 provides guidance to licensing agencies regarding the requirement to deny a licensee's renewal if the Controller notifies the licensing agency about a licensee who owes a debt. Subsection 1 clarifies that a licensing agency should use its established administrative procedures to deny the license renewal. Subsection 2 discusses the situation where a license is already expired, revoked, suspended or inactive when the licensing agency receives notice from the Controller. Subsections 3 and 4 provide that a licensee may work with the Controller to settle the debt after the license renewal is denied and the Controller will notify the licensing agency of any settlement with the licensee. Subsection 5 clarifies that a licensing agency may consider a license renewal application in accordance with its established administrative procedures. Any comments/questions? None.

NRS 353C.1965 provides a licensee with the right to request a hearing to determine the validity of the debt.

Sections 13 through 29 outline the hearing process. Many of these sections were directly patterned after the established hearing process for debt offsets with specific modifications to address the unique issues with licensee debtors.

Section 13 is a general statement about the hearing procedures outlined in these regulations.

Section 14 is an important section because it establishes the scope of the hearing and addresses concerns raised by a few licensing agencies during the SB 21 workshops last summer. Specifically, in Subsection 2, 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 the balance owed on the debt. The Controller does not intend for this to be an opportunity for a licensee to reopen a previously adjudicated case. For debts that have not been adjudicated, the scope of the hearing is a review of the documentation establishing the debt, review of any payments received, and any evidence to contest the validity of the debt. Any comments/questions? None.

Section 15 establishes the time limit of 30 days to request a hearing by a licensee.

Section 16 establishes a procedure for the Controller to hold a prehearing conference in an effort to settle the matter without the need for a formal hearing.

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

Section 18 requires a prehearing statement to be filed by each party 5 days prior to a hearing.

Sections 19 and 20 deal with pleadings and documentary evidence and requires that testimony must 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 a party may appear at the hearing.

Section 25 relates to recesses, continuances and a party's failure to appear.

Sections 26, 27 and 28 establish 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 decision after a hearing and establishes other steps to be taken after the hearing to conclude the matter.

This concludes my discussion on the regulations.

Is there any additional public comment?

Vicki Leigh, Administrative Services Officer for the Dept. of Business and Industry: Our office issues the licenses for the Financial Institutions Division and the Mortgage Lending Division. In section 2, I am hopeful that the Excel format will allow us to mask out the social security numbers. The reason I ask, is the Division of Mortgage Lending; 90% of their licensing base are mortgage brokers, mortgage bankers, and their agents. They make their application through the nationwide mortgage licensing system. All of the information is entered into that system and we do not have access to that system and all of the social security numbers are masked. It will be extremely difficult for us to get the information for that large number of licensees. Out of about 4000 licensees, the licenses that are issued by the division, 90-95% are due to the MLS. We do have visibility to the last four digits of the social security numbers, but not to the first five.

Controller Wallin: The reason that we are asking for the social security and EIN, if you have several John Smith's then how will we know who is the correct John Smith. We will probably have to put the onus back on the agency to tell who the correct John Smith is.

Vicki Leigh: It would be easier to find that one John Smith than to try and come up with 4000 social security numbers.

V. Public Comment. None.

Thank you everyone for your participation and comments today. If you think of anything else, please email David Loomis with that information.

V. Adjournment.

