

Meeting Agenda
SOUTH DAKOTA ABSTRACTERS BOARD OF EXAMINERS
South Dakota Department of Labor and Regulation, Sharpe Conference Room
123 W. Missouri Ave., Pierre, SD
October 24, 2018 2:00 p.m. CDT

Persons wishing to join the meeting by teleconference may do so by calling the Board office at (605) 642-1600 by October 22, 2018 to arrange for a call-in number.

- A. Call to Order
- B. Roll Call/Introductions
- C. Approval of the agenda
- D. Public Comment
- E. Approval of the Minutes of June 13, 2018, June 14, 2018
- F. FY Financial Update
- G. Update on South Dakota Land Title Guide
- H. Code of Conduct
- I. Obligation Recovery Center
- J. Executive Session-Pursuant to SDCL 1-25-2
- K. Complaints/Investigations-If any
- L. Other Business
- M. Next Meeting Date
- N. Adjourn

Meeting Minutes
SOUTH DAKOTA ABSTRACTERS BOARD OF EXAMINERS
Creekside Conference Room, Creekside Lodge at Custer State Park Resort
13389 U. S. Highway 16A, Custer, SD
June 13, 2018 12:00 p.m. MDT

Meeting called to order at 12:00 p.m. by President Greg Wick, Rapid City, SD.

Members Present: President Wick noted Board members in attendance as Board member Yvon Burtz of Winner, SD and Dan Roe of Spearfish, SD.

Members Absent: Secretary Treasurer Victoria Wilds of Canton, SD and Kara Semmler, Lay Board member from Pierre, SD.

At 12:05 p.m. President Wick asked for a motion to adjourn to executive session to conduct abstracter licensing examinations. 6 applicants were present. Roe made a motion to adjourn to executive session. Burtz seconded the motion. **MOTION PASSED.**

At 4:00 p.m. President Wick called for a motion to re-convene the meeting from executive session upon completion of examinations. Burtz made a motion to re-convene from executive session. Roe seconded the motion. **MOTION PASSED.**

With no other matters before the Board, Roe made a motion to adjourn the meeting. Burtz seconded. **MOTION PASSED.** Meeting adjourned at 5:00 p.m.

s/ Greg Wick, President

Meeting Minutes
SOUTH DAKOTA ABSTRACTERS BOARD OF EXAMINERS
Creekside Conference Room, Creekside Lodge at Custer State Park Resort
13389 U. S. Highway 16A, Custer, SD
June 14, 2018 3:30 p.m. MDT

President Wick called the meeting to order at 3:31 p.m.

Members Present: Yvon Burtz, Dan Roe, Greg Wick, Kara Semmler (via teleconference), Victoria Wilds (via teleconference)

Members Absent: None

Others Present: Carol Tellinghuisen, Executive Secretary, Brooke Tellinghuisen Geddes, Executive Assistant; Amber Mulder, Senior Staff Attorney, Department of Labor (via teleconference); Traci Renkly, Ellen Margheim, Nancy Aas, Peggy Boysen, Brian Kramer, Dennis Anderson, Michael Anderson, Bobbi Jo Dondelinger, Eric Hansen, Janae Van Ruler

Geddes conducted roll call; Wick, Burtz, Roe, Semmler and Wilds in attendance. Wick introduced those in attendance.

Burtz made a motion to approve the agenda as presented. Roe seconded the motion.
MOTION PASSED.

Wick asked for comment from public members in attendance. No comments were made.

Roe made a motion to approve the January 30, 2018 and January 31, 2018 minutes. Burtz seconded the motion. **MOTION PASSED.**

Tellinghuisen reported fiscal year to date figures as of April 30, 2018: revenue of \$52,465.37, expenditures of \$35,026.22 and cash on hand of \$298,191.87. Semmler made a motion to approve the financials as presented. Roe seconded the motion. **MOTION PASSED.**

Wick advised they are close to finalizing the two chapters being updated on probate law and it is close to being ready for dissemination. Roe and Burtz expressed their appreciation for the time Wick and others have spent working on the update.

Tellinghuisen advised the code of conduct is included in their packets and that it is not the final draft but is close to being finished. Once finished, it will be adopted by all Boards.

Mulder shared an update on the recent NC Dental Board training that took place and how it applies to the Board and what changes can be expected because of the NC Dental case. Both Tellinghuisen and Mulder attended the training.

Roe made a motion to enter executive at 3:46 p.m. pursuant to SDCL 1-25-2. Burtz seconded the motion. **MOTION PASSED.** All others exited meeting. Roe made a motion to exit executive session at 4:10 p.m. Burtz seconded the motion. **MOTION PASSED.** Ellen Margheim, Nancy Aas, Brian Kramer, Bobbie Jo Dondelinger, Eric Hansen and Janae Van Ruler re-joined the meeting.

Wick advised that a letter will be drafted on an issue brought to the Board. As related to that issue that was being investigated by Wick, the Board held discussion on confusion among licensees on current administrative rules. Wick made a motion to hire Bill VanCamp to help review the administrative rules and help clarify current language and write new suggested language for the Board to review. Roe seconded the motion. **MOTION PASSED.**

There was no other business.

The next meeting will be held in October 2018. Date to be determined.

Roe made a motion to adjourn. Burtz seconded the motion. **MOTION PASSED.** The meeting adjourned at 4:17 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Carol Tellinghuisen", is written on a light yellow rectangular background.

Carol Tellinghuisen
Executive Secretary
Abstracters Board of Examiners

REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/29/2018

AGENCY BUDGET UNIT	10 1038	LABOR & REGULATION ABSTRACTERS BD OF EXAMINERS	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS					
COMPANY NAME	6503	NEW LICENSE FEES				2,151.45	
1038000698	6503	4293920					
1038000698	6503	4293921				1,050.00	
1038000698	6503	4293922				1,500.00	
1038000698	6503	4293923				39,620.00	
ACCT: 4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)				44,321.45	*
ACCT: 42		LICENSES, PERMITS & FEES				44,321.45	**
1038000698	6503	4539001				700.00	
		OTHER CHARGES					
ACCT: 4539		OTHER CHARGES (STATE INTRA-GOVERNMENT)				700.00	*
1038000698	6503	4596001				5,242.48	
		EDUCATIONAL MATERIAL-NHA					
ACCT: 4596		CHARGES FOR SALES & SERVICES				5,242.48	*
1038000698	6503	4920045				5,942.48	**
		NONOPERATING REVENUES					
ACCT: 4920		NONOPERATING REVENUE				3,526.44	*
ACCT: 49		OTHER REVENUE				3,526.44	**
CNTR: 1038000698						53,790.37	***
COMP: 6503						53,790.37	****
B UNIT: 1038						53,790.37	*****

STATE OF SOUTH DAKOTA
 MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
 FOR PERIOD ENDING: 06/29/2018

AGENCY BUDGET CENTER	BUDGET UNIT CENTER-5	10 10380	LABOR & REGULATION ABSTRACTERS BD OF EXAMINERS ABSTRACTERS BOARD OF EXAMINERS	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	PAGE
COMPANY NO 6503 COMPANY NAME PROFESSIONAL & LICENSING BOARDS									
1038000698	6503	51010100	F-T EMP SAL & WAGES				92.42	1,612.24	
1038000698	6503	51010300	BOARD & COMM MERS FEES				.00	4,740.00	
ACCT: 5101 EMPLOYEE SALARIES									
1038000698	6503	51020100	OASI-EMPLOYER'S SHARE				92.42	6,352.24	*
1038000698	6503	51020200	RETIREMENT-ER SHARE				6.98	490.96	
1038000698	6503	51020600	HEALTH/LIFE INS.-ER SHARE				5.54	96.69	
1038000698	6503	51020800	WORKER'S COMPENSATION				14.92	193.59	
1038000698	6503	51020900	UNEMPLOYMENT COMPENSATION				.18	2.82	
ACCT: 5102 EMPLOYEE BENEFITS									
ACCT: 51 PERSONAL SERVICES									
1038000698	6503	52030200	AUTO PRIV (IN-ST.) L/RTE				27.69	784.83	*
1038000698	6503	52030300	AUTO-PRIV (IN-ST.) H/RTE				120.11	7,137.07	**
1038000698	6503	52031000	LODGING/IN-STATE				.00	27.14	
1038000698	6503	52031400	TAXABLE MEALS/IN-STATE				.00	1,268.40	
1038000698	6503	52031500	NON-TAXABLE MEALS/IN-ST				.00	450.06	
ACCT: 5203 TRAVEL									
1038000698	6503	52040900	MANAGEMENT CONSULTANT				.00	2,125.60	*
1038000698	6503	52041810	BIT DEVELOPMENT COSTS				.00	26,487.93	
1038000698	6503	52042000	CENTRAL SERVICES				10.43	394.80	
1038000698	6503	52045300	TELECOMMUNICATIONS SRVCS				.00	1,917.15	
1038000698	6503	52045900	INS PREMIUMS & SURETY BDS				.00	218.26	
ACCT: 5204 CONTRACTUAL SERVICES									
1038000698	6503	52053500	POSTAGE				2,010.43	29,833.14	*
1038000698	6503	52059800	PROC CARD PURCH-APPROVED				.00	338.59	
ACCT: 5205 SUPPLIES & MATERIALS									
1038000698	6503	52280000	OPER TRANS OUT -NON BUDGT				.00	984.80	*
ACCT: 5228 NONOP EXP/NONBGTD OP TR									
1038000698	6503	52280000	OPERATING EXPENSES				13.15	409.63	*
COMP: 6503 PROFESSIONAL & LICENSING BOARDS									
CENTER: 1038000698									
B UNIT: 1038									

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1038 ABSTRACTERS BD OF EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1038000698	1140000	294,052.85	DR	ABSTRACTERS BOARD OF EXAMINERS
COMPANY/SOURCE TOTAL			294,052.85	DR *	
COMP/BUDG UNIT TOTAL			294,052.85	DR **	
BUDGET UNIT TOTAL			294,052.85	DR ***	

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 08/31/2018

AGENCY BUDGET UNIT	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
10 ABSTRACTERS BD OF EXAMINERS					
1038 LABOR & REGULATION					
1038000698	6503	4596001	EDUCATIONAL MATERIAL-NHA	.00	200.00
ACCT: 4596				.00	200.00
1038000698	6503	4920045	CHARGES FOR SALES & SERVICES	.00	200.00
ACCT: 45				.00	200.00
1038000698	6503	4920045	NONOPERATING REVENUES	3,623.85	3,623.85
ACCT: 4920				3,623.85	3,623.85
1038000698	6503	4920045	NONOPERATING REVENUE	3,623.85	3,623.85
ACCT: 49				3,623.85	3,623.85
CNTR: 1038000698				3,623.85	3,823.85
COMP: 6503				3,623.85	3,823.85
B UNIT: 1038				3,623.85	3,823.85

AGENCY BUDGET CENTER	UNIT	ABSTRACTS BOARD OF EXAMINERS	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	PAGE
1038000698	5204	5228000	CONTRACTUAL SERVICES OPER TRANS OUT -NON BUDGT	888.41	5,677.00	*
1038000698	5228	5228000	NONOP EXP/NONBGRD OP TR	50.21	56.14	*
1038000698	52	5228000	OPERATING EXPENSES	938.62	6,361.94	**
COMP : 6503 PROFESSIONAL & LICENSING BOARDS				984.70	7,383.00	***
CENTER : 1038000698				984.70	7,383.00	****
B UNIT : 1038				984.70	7,383.00	*****

1038000698	5102	51020900	EMPLOYEE BENEFITS PERSONAL SERVICES	9.20	130.01	*
1038000698	51	51020900	PERSONAL SERVICES	46.08	1,021.06	**
1038000698	5503	52031000	AVTO-PRIV (IN-ST.) H/RTE	.00	256.20	
1038000698	5503	52031000	LODGING/IN-STATE	.00	222.60	
1038000698	5503	52031400	TAXABLE MEALS/IN-STATE	.00	11.00	
1038000698	5503	52031500	NON-TAXABLE MEALS/IN-ST	.00	139.00	
1038000698	5203	52040900	TRAVEL	.00	628.80	*
1038000698	5503	52042000	MANAGEMENT CONSULTANT	416.60	4,895.12	
1038000698	5503	52044900	CENTRAL SERVICES	110.29	320.36	
1038000698	5503	52044900	RENTS-PRIVATE OWNED PROP.	100.00	200.00	
1038000698	5503	52049600	OTHER CONTRACTUAL SERVICE	261.52	261.52	

1038000698	5101	51020100	EMPLOYEE SALARIES	36.88	891.05	*
1038000698	5503	51020100	OAS-EMPLOYER'S SHARE	2.76	68.54	
1038000698	5503	51020200	RETIREMENT-ER SHARE	2.21	21.05	
1038000698	5503	51020600	HEALTH/LIFE INS.-ER SHARE	4.17	39.73	
1038000698	5503	51020800	WORKER'S COMPENSATION	.05	.57	
1038000698	5503	51020900	UNEMPLOYMENT COMPENSATION	.01	.12	

1038000698	5503	51010100	F-T EMP SAL & WAGES	36.88	351.05	
1038000698	5503	51010300	BOARD & COMM MBRS FEES	.00	540.00	

1038000698	6503	6503	PROFESSIONAL & LICENSING BOARDS	36.88	351.05	
1038000698	6503	6503	PROFESSIONAL & LICENSING BOARDS	.00	540.00	

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 08/31/2018

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1038 ABSTRACTERS BD OF EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1038000698	1140000	290,493.70	DR	ABSTRACTERS BOARD OF EXAMINERS
COMPANY/SOURCE TOTAL			290,493.70	DR *	
COMP/BUDG UNIT TOTAL			290,493.70	DR **	
BUDGET UNIT TOTAL			290,493.70	DR ***	

Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members

Purpose

The purpose of this code of conduct and conflict of interest policy (“Code”) is to establish a set of minimum ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. With the exception of those under the purview of the Unified Judicial System, this Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter “Boards” and “Board member(s)”). A Board may add provisions to, or modify the provisions of, the Code. However, any change that constitutes a substantive omission from the Code must be approved by the State Board of Internal Control.

Conflict of Interest for Board Members

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

General Restrictions on Participation in Board Actions

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board’s official actions are administrative, quasi-judicial or quasi-legislative.

A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member’s interest or relationship creates a potential to influence the member’s impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

Administrative actions involve the day-to-day activities of the Board and include personnel, financing, contracting and other management actions. Most of the administrative official actions of a Board are done through the Board's administrative staff. To the extent Board members are involved, the conflict of interest concern most frequently arises in the area of state contracting which is addressed in more detail below. If issues arise that are not directly addressed by this Code, the Board member should consult with the attorney for the Board.

"Official action" means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

Contract Restrictions

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member's term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General's website at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member's term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: <http://bhr.sd.gov/forms/>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may

contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member's own interests and contracts.

Consequences of Violations of Conflict of Interest Laws

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30-46.

Retaliation for Reporting

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

Anti-Harassment/Discrimination Policy

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- Unwelcome physical contact such as kissing, fondling, hugging, or touching;

- Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- Slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

Confidential Information

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

Reporting of Violations

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

This Code of Conduct and Conflict of Interest Policy was adopted by the State Board of Internal Control pursuant to SDCL § 1-56-6.

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION
AND
BUREAU OF ADMINISTRATION, OBLIGATION RECOVERY CENTER**

This Agreement is entered into by and between the parties hereinafter referred to as:

DLR: SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION

CENTER: BUREAU OF ADMINISTRATION, OBLIGATION RECOVERY CENTER

For purposes of implementing SDCL Chapter 1-55, (SDCL 1-55), which authorizes the DLR to assign unpaid debts owed to DLR to the Center for collection, this agreement is to set forth the terms and conditions between the DLR and Center for collecting unpaid debts referred by DLR in its discretion, including all taxes, penalties, interest, and fees, and surcharges regarding unpaid debts referred by DLR, in accordance with the procedures specified in SDCL 1-55. The South Dakota Division of Insurance and the South Dakota Unemployment Insurance Division, both under the jurisdiction of the South Dakota Department of Labor and Regulation are specifically excluded from the terms of this MOU.

DURATION OF AGREEMENT

The effective date of this Agreement shall be on the date of execution and will be effective until cancelled. The DLR or Center may terminate this agreement upon thirty days written notice to the other party.

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION DUTIES AND RESPONSIBILITIES

The items listed below are the responsibilities of the DLR:

- A. SDCL 1-55 states that each agency that sends debts to the Center shall provide a "final notification" to each debtor at least 14 days prior to sending the obligation information to the Center for collection purposes. SDCL 1-55-7 states that this notice must contain all the following:
 - a. The name of the referring entity;
 - b. Contact information for the referring entity;
 - c. The name of the debtor;
 - d. The nature of the debt;
 - e. The principal amount of the debt;
 - f. The total amount of the debt;
 - g. A statement that the debt will not be turned over for collection to the Center until a time at least fourteen days after the date the final notification is sent to the debtor; and
 - h. A statement that if the debt is turned over to the Center, a cost recovery fee of twenty percent of the principal, in the amount of \$____, will be added to the total debt owed by the debtor to the referring agency.

- B. Within forty-five (45) days of sending the "final notification" to the debtor, the DLR shall provide the Center with the detailed debt information including principal, penalty and interest information (if applicable) along with full names, mailing addresses (if available), social security numbers (if available), federal employer identification number (if

available), dates of birth (if available), and all other debtor information necessary to support recovery of the amount owed. The information will be transmitted electronically with each referral to the Center from the DLR in the format prescribed by the Center and following the established encryption guidelines and will be updated with available information upon the Center's request. The Center will maintain an account of the fees assessed to each case referred for collection services.

- C. Once an obligation is referred to the Center, the DLR shall not send any additional collection notices to the debtor and will refer the debtor to the Center for payment and collection purposes.
- D. The cases referred by the DLR to the Center shall be in compliance with SDCL 1-55.
- E. The DLR shall provide detailed information regarding the creation and/or authentication of the obligation directly to the obligor on an as needed basis.

OBLIGATION RECOVERY CENTER DUTIES AND RESPONSIBILITIES

- A. The Center will send a letter to all debtors that are referred within 30 days of receipt, except by mutual agreement of the Center and the DLR. This letter will inform the debtor that their case has been referred to the Center and provide them with the updated balance information, including the 20% cost recovery fee, and will also provide the debtor with payment options and Center contact information.
- B. The Center will not send letters to debtors that have been identified as deceased by LexisNexis. These cases will be closed and returned to the referring agency.
- C. For debtors within a state that requires funds collected from a debtor be deposited into a trust bank account located within that state, the Center will not send collection notices to the debtor and will route the debt to an Outside Collection Agency as soon as possible for further collection actions. The nine states that currently require trust accounts are North Carolina, Wisconsin, Maine, Michigan, West Virginia, Nevada, Idaho, Alaska, and Arizona.
- D. The Center will not send letters to debtors with an address outside the United States. The Center will route the debt to an Outside Collection Agency as soon as possible for further collection actions.
- E. The Center agrees to utilize reasonable and lawful collection efforts to secure payment of debt obligations assigned by the DLR. Upon contact with the debtor, the Center shall inform the debtor of the balance due, including the cost recovery fee imposed by the Center. The Center shall attempt to arrange immediate full payment of the debtor's debt obligation. If the debt cannot be paid in full immediately, the Center may establish reasonable and affordable payment arrangements with the debtor to pay the debt by installments.
- F. The Center will also utilize other enforcement techniques when the debtor has not voluntarily made payment or entered into a payment arrangement including the suspension of driver's license, motor vehicle, boat, and motorcycle registration, hunting, fishing, state park, and camping permits. The Center will establish a process with the issuing agencies of these licenses, registrations, and permits to notify the

respective issuing agencies that a debt has been referred to the Center for the debtor. Those agencies will then be responsible for the suspension or non-issuance of the license, registration or permit as required by SDCL 1-55-12.

- G. The collection practices of the Center shall comply with all applicable state and federal laws governing collection of debt. The Center shall have established procedures for receiving and acting on complaints regarding collection activities and shall be required to assist the DLR in resolving complaints.
- H. The Center shall provide monthly reports to the DLR that provides the following information:
- Debts assigned
 - Payments received
 - Debts assigned to collection agencies
 - Letters generated
 - Phone calls made and received
 - Payment agreements established
 - Cases closed grouped by reason for closure
- I. The Center shall transfer all moneys collected from the debtor to the DLR within thirty (30) days after the end of the month in which the moneys were collected. Such transfers shall be made to the account established by the DLR to receive such payments. The Center will also provide a file that details the payment information so the DLR can update their records accordingly.
- J. The Center will provide the DLR with a summary of the collection strategies that will be utilized by the Center to collect on the debt referred.
- K. The Center will establish a process for the DLR to recall cases based on either contract or other external circumstance that puts into question the collectability or existence of the debt.
- L. The Center will provide some cases back to the DLR when no further collection action is likely using a yet to be determined manner and format. Some examples of this may be if the debtor alerts the Center that the debtor has filed for bankruptcy or if the Center receives confirmation that the individual is deceased.
- M. The Center will provide the DLR with a direct phone number for a supervisor within the Center call center that the DLR can contact with questions on DLR accounts that have been referred.
- N. The DLR shall schedule and conduct any due process hearing(s) that are appropriately requested and required by the debtor with the Center providing documentation and assistance as needed.

COLLECTION FEE AND DEBTOR PAYMENTS

- A. Pursuant to SDCL1-55-4, the Center will impose a 20% cost recovery fee to each liability at the time it is assigned to the Center to reflect the costs of processing which

shall be added to the debt owed to the DLR. All DLR debts assigned are considered principal based and therefore the 20% will be added to the full debt.

- B. The Center shall be entitled to the collection recovery fee for:
 - 1) Full or partial payments obtained by the Center (partial payments will prorated between the debt referred and the collection recovery fee); and
 - 2) Payments made directly to the DLR following acceptance of the cases and commencement of collection activity by the Center.
- C. The Center shall not be entitled to collection fee for:
 - 1) Payments made directly to the DLR prior to the Center's acceptance of the case;
 - 2) Payments discovered as being previously paid to the DLR prior to Center assignment.
- D. If the amount collected is less than the principal amount of the debt referred to the Center and the cost recovery fee, the amount collected will be prorated between the principal amount of the debt and the cost recovery fee.
- E. If more than one referring entity has referred a debt to the Center for the same debtor, or if the same referring entity has referred multiple debts to the Center for the same debtor, the Center will apply payments to the first referred debt before proceeding to the subsequent referred debt.
- F. Once the debt is referred to the Center, the Center will become the system of record. If an adjustment needs to be made to the balance due, the referring agency must provide an update to the Center to update the balances accordingly.

CONFIDENTIALITY

The Center and the DLR agree to institute procedures to assure that adequate safeguards are established to provide protection against unauthorized access or disclosure of all information received pursuant to and in accordance with this Agreement.

AMENDMENTS

The terms of this Agreement may be amended or supplemented at any time by agreement of the parties.

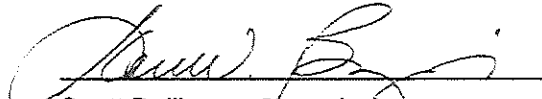
SOUTH DAKOTA DEPARTMENT OF LABOR AND
REGULATION



Marcia Hultman, Cabinet Secretary
South Dakota Department of Labor and Regulation

Date: 9-5-18

BUREAU OF ADMINISTRATION
OBLIGATION RECOVERY CENTER



Scott Bollinger, Commissioner
Bureau of Administration

Date: 9-6-18