

STATE CONTROLLER POLICY

REAL PROPERTY LEASES - PAYMENTS TO NEW LANDLORDS

1) Voluntary Transfers. Under Colorado real property law the transferee of real property in a voluntary transfer acquires the property subject to existing leases and cannot evict the tenant unless the tenant is in breach.

a. Payments Conditions. When a current landlord transfers ownership to a new landlord in a voluntary sale, Agencies and Institutions of Higher Education (IHEs) shall not pay the new landlord until all the following conditions are met and documents and information supplied:

- i. The new landlord sends the Agency or IHE written notice of the transfer of ownership that includes the following information:
 1. Name of the new landlord, and
 2. Address where the rent is to be paid
- ii. The new landlord provides the Agency a W-9 that includes the new landlord's tax identification number,
- iii. The new landlord provides proof of conveyance such as a copy of the conveyance document, an assignment and assumption of lease, or deed.
- iv. The Agency or IHE notifies the previous landlord of the new landlord's claim of ownership and that the Agency or IHE will begin paying the new landlord unless a timely objection is received, and the previous landlord acknowledges the change in ownership or does not respond within a reasonable time.

b. Objections. Agencies and IHEs shall contact the Office of the State Controller (OSC) for further direction if the previous landlord objects to the transfer. Further payments under the lease shall be withheld until the objections are resolved or the OSC provides direction.

c. Lease Amendment. Agencies and IHEs should attempt to execute an amendment to its lease that recognizes the new landlord and leaves all other terms unchanged. If the Agency or IHE's lease with the previous landlord did not include a provision regarding the conveyance of the premises, assumption of lease, and attornment and non-disturbance, then the amendment to the lease should include these provisions.

2) Involuntary Transfers. Agencies and IHEs should contact the Office of the State Architect's Real Estate Programs and the OSC if the property was involuntarily transferred, for example, purchase at a foreclosure sale. The rights of the tenant and the transferee may be very different in such circumstances.

3) Statutory Violation Exception. Payments made to new landlords prior to OSC approval that comply with this policy are not considered statutory violations pursuant to Fiscal Rule . 2-2 §7.

David J. McDermott, CPA
State Controller