

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 the lease and cannot evict the tenant unless the tenant breaches the lease.
- a. Payments Conditions.** When a current landlord transfers ownership to a new landlord in a voluntary sale, agencies and institutions of higher education shall pay the new landlord only after all the following conditions are met and documents and information supplied:
- i.** The new landlord sends the agency 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 notifies the previous landlord of the new landlord's claim of ownership and that the Agency 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 shall contact the State Controller for further direction if the previous landlord objects to the transfer. Further payments under the lease shall be withheld until the objections are resolved and the State Controller provides direction.
- c. Lease Amendment.** Agencies should attempt to execute an amendment to its lease that recognizes the new landlord and leaves all other terms unchanged. If the Agency'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.** Contact the State Architect's Office/Real Estate Programs and the State Controller's Office 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.

David J. McDermott, CPA
State Controller