

2016 Regular Session

SENATE BILL NO. 387

BY SENATOR CORTEZ

MOTOR VEHICLES. Provides relative to collection of payments due to the office of motor vehicles and the office of debt recovery. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 32:8 and R.S. 47:1676(D)(1), and to enact R.S. 32:9, relative to
3 the Department of Public Safety and Corrections, office of motor vehicles and the
4 Department of Revenue, office of debt recovery; to provide relative to notice
5 requirements to certain debtors; to provide for debt collection of debt owed to state
6 agencies; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:8 is hereby amended and reenacted to read as follows:

9 §8. Final delinquent debt; office of motor vehicles

10 A. For purposes of this Section, the following words shall have the following
11 meanings unless the context clearly indicates otherwise:

12 (1) "Debt" means any legally collectible liquidated sum due and ~~owed~~ **owing**
13 to the Department of Public Safety and Corrections, office of motor vehicles,
14 pursuant to R.S. 32:57.1, 863, ~~or 863.1,~~ **or an installment agreement.**

15 (2) "Delinquent debt" means a debt that is **past due for** sixty days or more
16 ~~past due.~~

17 (3) "Final **debt**" means **any debt in which** ~~the amount due is no longer~~

1 ~~negotiable and that the debtor has no further right of administrative and or~~ judicial
2 review **rights to challenge the validity of the debt or the amount owed.**

3 (4) "Office of motor vehicles" means the Department of Public Safety and
4 Corrections, office of motor vehicles.

5 B. The office of motor vehicles shall refer all final ~~delinquent debts~~ **debt** to
6 the office of debt recovery as provided in R.S. 47:1676. Final ~~delinquent~~ debt
7 referrals shall include data and information in the required format necessary to
8 institute collection procedures. All ~~delinquent debts~~ **Final debt** shall be authenticated
9 by the office of motor vehicles prior to being referred to the office of debt recovery.
10 ~~Once the delinquent debt becomes final, and prior~~ **Prior** to referral to the office of
11 debt recovery, the office of motor vehicles shall notify the debtor in writing **by**
12 **certified or registered mail, return receipt requested, of the full amount of the**
13 **final debt, of all available payment options, including an installment agreement,**
14 **that the debtor has sixty days from the date of receipt of the notice to contact**
15 **the office of motor vehicles to make payment arrangements or to contest the**
16 **debt and request an administrative hearing, and** that failure to **contest the debt**
17 **and request an administrative hearing, make payment arrangements, or** to pay
18 the debt in full ~~within sixty days~~ shall subject the debt to ~~the maximum amount owed~~
19 ~~together with~~ the additional fee collected by the office of debt recovery provided for
20 in R.S. 47:1676.

21 C. The office of motor vehicles may promulgate rules and regulations in
22 accordance with the Administrative Procedure Act necessary to implement the
23 provisions of this Section, including rules for referring final ~~delinquent~~ debt.

24 **D. Notwithstanding any provision of law to the contrary, no fee for a**
25 **debt defined in R.S. 32:8(A)(1) incurred by a debtor for a violation on or before**
26 **June 30, 2014, shall exceed the fee amounts in effect prior to the effective date**
27 **of Act No. 641 of the 2014 Regular Session of the Legislature.**

28 **E. Prior to July 1, 2017, notwithstanding any provision of law to the**
29 **contrary, the office of motor vehicles shall take no action to declare as final debt**

1 or refer any final debt to the office of debt recovery that arises from a debtor's
2 failure to pay a fee pursuant to either R.S. 32:57.1 or 32:863.1.

3 §9. Collection and payment procedure; office of motor vehicles

4 A. On and after the effective date of the Act which originated as Senate
5 Bill 387 of the 2016 Regular Session of the Legislature, the office of motor
6 vehicles shall implement the following collection and payment procedure to
7 make any debt owed to the office of motor vehicles a final debt and collectible
8 by the office of debt recovery.

9 B. Upon determination of a debt by the office of motor vehicles, it shall
10 send the debtor a demand notice by certified or registered mail, return receipt
11 requested, that requests payment, outlines any additional information necessary
12 to identify the nature of the debt and the full amount of the debt due, and
13 notifies the debtor that failure to pay the debt in full or make payment
14 arrangements within sixty days of receipt of the notice, or to contest the debt
15 and to request an administrative hearing, shall subject the debtor to collection
16 of the debt by the office of debt recovery and to the additional collection fee
17 charged by the office of debt recovery. Signature of the debtor on the return
18 receipt green card shall be proof of notice of amicable demand on the debt.

19 C. If a return receipt green card signed by the debtor is not received by
20 the office of motor vehicles, prior to renewal of a driver's license or motor
21 vehicle registration, the office of motor vehicles shall require the debtor to sign
22 a written acknowledgment of the debt that notifies the debtor that failure to pay
23 the debt in full or make payment arrangements within sixty days of receipt of
24 the notice, or to contest the debt and to request an administrative hearing, shall
25 subject the debtor to collection of the debt by the office of debt recovery and to
26 the additional collection fee charged by the office of debt recovery. Signature
27 of the debtor on debt acknowledgment shall be proof of notice of amicable
28 demand on the debt.

29 D. Upon exhaustion of the procedures in this Section, the office of motor

additional collection fees will be charged.

Proposed law retains present law but changes the reference from "all final delinquent debt" to "final debt" and requires that the notice of final debt be in writing and sent by certified or registered mail, return receipt requested, and include all available payment options, including an installment agreement, that the debtor has 60 days from the date of receipt of the notice to contact the office of motor vehicles to make arrangements to pay or to contest the debt and request an administrative hearing, or pay the amount owed in full, and the consequences of failure to take such steps.

Present law defines "debt" as any legally collectible liquidated sum due and owed to the Dept. of Public Safety and Corrections, office of motor vehicles pursuant to present law. Proposed law adds installment agreements to the definition. Present law further defines "delinquent debt" as a debt that is sixty days or more past due. Proposed law retains this definition. Present law further defines "final" to mean the amount due is no longer negotiable and the debtor has no further right of administrative and judicial review. Proposed law defines "final debt" to mean any debt in which the debtor has no further administrative or judicial review rights to challenge the validity of the debt or the amount owed.

Proposed law provides that no fee for a debt as defined by proposed law incurred for a violation on or before June 30, 2014, shall exceed the fee amounts in effect prior the 2014 fee amount changes. Further provides that prior to July 1, 2017, the office of motor vehicles shall take no action to declare as final debt or refer any final debt to the office of debt recovery that arises from a debtor's failure to pay a fee pursuant to provisions of law relative to failure to honor a written promise to appear or failure to possess evidence of compulsory motor vehicle liability security.

Proposed law further provides for collection and payment procedures to be followed by the office of motor vehicles, and provides that upon exhaustion of the procedures that the office transfer the debt for collection by the office of debt recovery.

Present law authorizes the office of debt recovery to use any collection remedy provided by state law.

Proposed law clarifies that settlement agreements and installment agreements are among the collection tools available to the office of debt recovery.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 32:8 and R.S. 47:1676(D)(1); adds R.S. 32:9)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Adds installment agreements to the definition of "debt".
2. Clarifies definition of "final debt" to provide the debtor has no further right to challenge the validity of the debt or the amount owed.
3. Requires the office of motor vehicles to notify the debtor in writing by certified or registered mail, return receipt requested and provides collection and payment procedure to be implemented by the office of motor vehicles.
4. Provides that no fee for a debt as defined by proposed law incurred for a violation on or before June 30, 2014, shall exceed the fee amounts in effect prior the 2014, fee amount changes.

5. Provides that prior to July 1, 2017, the office of motor vehicles shall take no action to declare as final debt or refer any final debt to the office of debt recovery that arises from a debtor's failure to pay a fee pursuant to provisions of law relative to failure to honor a written promise to appear or failure to possess evidence of compulsory motor vehicle liability security.
6. Makes technical changes.