

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 629 by Representative Broadwater

REVENUE DEPARTMENT: Establishes the office of debt recovery at the Dept. of Revenue for the collection of delinquent debts owed to certain governmental entities

Synopsis of Senate Amendments

1. Provides that the office of debt recovery and the office of the attorney general are to "jointly serve" as collection entities to collect delinquent state debt.
2. Deletes the Debt Recovery Fund and instead requires that monies collected be paid to the referring agency as self-generated revenue, except for monies recovered from tax debts which shall be deposited into the state general fund and from which, beginning Fiscal Year 2013-2014, and for four consecutive years thereafter, \$5 million shall be appropriated to the Office of State Police for a training academy class.
3. Regarding the collection fee of up to 25%, limits the imposition of the fee to those final delinquent debts that have become final after the initial effective date of proposed law, changes provisions governing the distribution of the fee between the office and the attorney general, and requires that the fee be established by rule and that it be imposed uniformly.
4. Changes the date by which agencies without a contract with the attorney general for debt collection must refer all 60-day delinquent debts to the office for collection from July 1, 2013 to January 1, 2014.
5. Requires agencies to refer "non-final delinquent debts" to the attorney general for collection when the debt has been delinquent for 60 days and defines "non-final delinquent debt".
6. Regarding the authority to suspend, revoke or deny a professional license for purposes of proposed law, requests the Louisiana Supreme Court to consider promulgating rules relative to licenses to practice law.
7. Deletes the authority of the office to garnish or seize payments of progressive slot machine annuities and cash gaming winnings.
8. Authorizes the secretary of DOR to furnish information to DHH's tax filing unit for the purposes of complying with federal law.
9. Limits the authority to collect healthcare debt on behalf of a political subdivision.

Digest of Bill as Finally Passed by Senate

Present law provides for the establishment and organization of the Department of Revenue (DOR) and all of the offices that are part of the department.

Proposed law retains present law and adds the office of debt recovery, hereinafter "office", within DOR which shall be responsible for the collection of tax payable to DOR and may be responsible for the collection of delinquent debts, accounts, or claims due on behalf of all other state agencies which refer delinquent debt to the office for collection, as well as

political subdivisions which enter into formal agreements with the department.

Proposed law requires all debts owed to "agencies" [defined as entities which are authorized to perform any function of state government in the executive branch] to be referred to either the attorney general's office or to the office of debt recovery for collection. Requires all "agencies" which do not have a contract with the attorney general's office for debt collection on or before January 1, 2014, to refer all delinquent debts to the office for collection when the debt is final and has been delinquent for 60 days.

Proposed law requires each agency to refer "non-final delinquent debts" requiring legal action or legal proceedings, other than administrative proceedings within such agency, to the attorney general's office for collection when the debt has been delinquent for 60 days pursuant to referral guidelines established by the attorney general or pursuant to rules promulgated by the attorney general pursuant to the Administrative Procedure Act.

"Delinquent debt" is defined as a "final" debt that is 60 days or more past due. "Final" means the amount due is no longer negotiable and that the debtor has no further right of administrative and judicial review.

"Non-final delinquent debt" is defined as any debt that an agency has notified a debtor is owed but the debt remains unpaid, due, or negotiable for a period of 60 days or more, and such debt is not final, and the debtor has further administrative or judicial review rights to challenge the validity of the debt or the amount owed.

"Debt" is defined as any legally collectible, liquidated sum due and owing an agency, or due and owing a person and collectible by any agency, or a judgment, order of the court, or bond forfeiture which is properly certified by a clerk of court and which orders the payment of a fine or other court ordered penalty. Excludes debt due and owing to an agency pursuant to certain federal programs, overpaid unemployment compensation benefits, or unpaid contributions or reimbursements pursuant to Louisiana Employment Security Law.

Proposed law requires the department to charge the debtor a fee not to exceed 25% of the total delinquent debt liability which becomes final after the initial effective date of the proposed law. Fees collected according to the provisions of proposed law are to be retained by the office after the debt is collected and be divided in accordance with an agreement between the office and the attorney general after payment of costs set forth in the agreement.

Proposed law requires the money collected to be transferred to the referring agency within 30 days after the end of the month in which collected. Such monies shall be used by the agency in the same manner as if it had been timely collected, except that any money collected for non-payment of Title 47 tax liabilities shall be deposited into the state general fund and the first \$5 million shall be appropriated, beginning in Fiscal Year 2013-2014 and for four consecutive fiscal years thereafter, to the Office of State Police for a training academy class.

Proposed law permits the office to collect delinquent debts owed to political subdivisions pursuant to a formal agreement with the department.

Proposed law requires that all debts be final and authenticated by the agency or participating political subdivision prior to being referred for collection.

Proposed law authorizes the secretary of DOR to contract for outside "legal services" after first having requested assistance from the office of the attorney general.

Proposed law authorizes the office to use a participating agency's or political subdivision's statutory collection authority to collect delinquent debts. The office may also use authority granted in present law regarding offset from income tax refunds or other accounts payable by the state for any delinquent debt transferred by state agencies or political subdivisions.

Proposed law authorizes the office to submit a request for the suspension, revocation or

denial of any type of professional or other license, permit, or certification to the entity or body that governs, regulates, or issues them and the office is authorized to "assume the obligation for the payment of such services in order to collect delinquent debt." The Louisiana Supreme Court is requested to consider rules and regulations relative to attorneys licensed to practice law for purposes of proposed law.

Proposed law authorizes state agencies to transmit data to the office as necessary to aid in the collection efforts of the office. Requires the secretary to establish and maintain a centralized electronic debt registry to compile the information provided by state agencies and participating political subdivisions. The data compiled in the registry shall be available to the office and the attorney general for cross-referencing and for the identification of debtors necessary for the collection of delinquent debt; however, all data, records, and files utilized for debt collection shall be deemed confidential and privileged, and no person shall disclose any information obtained from such records except in the administration and enforcement of proposed law. However, except as provided for in tax law confidentiality provisions or in "any other applicable provision of law", information concerning the identity of a debtor, the amount of the debt owed, and the amount of any collections or settlements shall be a public record subject to disclosure under the Public Records Law.

Proposed law provides that compilation of tax data in the electronic registry by the department shall not be a violation of present law relative to confidentiality of tax records, and any information or data gathered by the department and the office may be used for purposes of collecting tax and non-tax debt.

Proposed law authorizes the secretary of DOR to furnish in his discretion information to the Louisiana Department of Health and Hospital's tax filing unit for the purposes of complying with requirements of federal law.

Proposed law requires the department to promulgate rules and regulations in accordance with the APA to implement the provisions of proposed law.

Proposed law authorizes the secretary to enter into reciprocal collection and offset of indebtedness agreements with the federal government.

Proposed law requires the office to evaluate and recommend any uncollectible debt for sale or securitization in accordance with present law after the office exercises and employs its collection methods and tools.

Proposed law requires that the operations of the office be subject to annual review by the Cash Management Review Board.

Proposed law authorizes the department to establish and use an electronic "financial institution data match system" for comparison of certain account information held by financial institutions with the department and office's databases of state tax and state non-tax debtors against whom an assessment or judgment for debt owed to the state has become final.

Requires a financial institution or its processor to provide to the department or the office, the name, record address, social security number or other taxpayer identification number, any other identifying information, and an average daily account balance for the most recent 30 day period, for each calendar quarter for each account owner who maintains an account at such institution and who the office purports is a tax or non-tax debtor.

Requires the department to pay a participation fee to each financial institution that actually receives a data match request file. The participation fee shall be for actual costs incurred for conducting the data match. However, in order to receive the participation fee, the financial institution must be FDIC insured and the financial institution must show it has incurred costs under present law and proposed law. The department may require a financial institution to submit invoices and other documentation to substantiate the costs that have been incurred. After actual costs are established by a financial institution, the office shall automatically remit

payment to the financial institution on a quarterly basis.

Provides that if a financial institution assesses a fee upon its customer for processing a state tax or non-tax levy received from the office or the department, the fee shall be collected by the financial institution from the proceeds of the customer's account before any account proceeds are remitted to the office or the department to satisfy the state tax or non-tax levy. Provides that any fees paid according to the provisions of proposed law shall not be comprised of or constitute any amounts due to a financial institution for its compliance with present law.

Provides that if a financial institution or its processor has a current data match system developed or used to comply with the child support data match system, the financial institution or its processor may use that system to comply with the provisions of proposed law.

Provides that for La. domiciled financial institutions having no branch offices outside the state, the office or its data match vendor shall ensure that compliance with proposed law and present law may be accomplished with a single data match file. Louisiana domiciled institutions having no branch offices outside the state, or their processor, shall not be required to process multiple data match files.

Provides that a financial institution may disclose to its account holders that the department or the office has the authority to request and receive certain identifying information for state tax and non-tax debt collection purposes.

Prohibits a financial institution, including its directors, officers, employees, or other agents, from incurring liability to any person as a result of providing account information to the department or office in compliance with a request that conforms to the provisions of proposed law. Further prohibits a financial institution, including any of its directors, officers, employees, or other agents, from incurring civil or criminal liability for any disclosure of information made in accordance with proposed law.

Provides that the department shall be responsible for the reconciliation and tracking of data and information regarding the number of sent data match request files, received completed data match accounts, and amounts paid. The department shall also be responsible for tracking and reporting all statistical information regarding financial data match activities to the commissioner of administration or his designee every six months and to report the information to the Joint Legislative Committee on the Budget every session prior to the last day of each legislative session.

Proposed law requires the department, office, and their designated vendor for the data match program, to keep all information received from financial institutions confidential, and any employee, agent or representative of the department, office, and their designated vendor is prohibited from disclosing that information to any other third party.

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

(Amends R.S. 6:333(B)(intro. para.) and R.S. 36:451(C); Adds R.S. 6:333(F)(18), R.S. 36:458(H), and R.S. 47:1676 and 1677)