# SLS 16RS-1015

## ENGROSSED

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 <b>past due for</b> sixty days or more
16	past due.
17	(3) "Final debt" means any debt in which the amount due is no longer

Page 1 of 6

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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 $\underline{by}$
12	certified or registered mail, return receipt requested, of the full amount of the
13	<u>final debt, of all available payment options, including an installment agreement,</u>
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 <del>within sixty days</del> shall subject the debt to <del>the maximum amount owed</del>
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.

28E. Prior to July 1, 2017, notwithstanding any provision of law to the29contrary, the office of motor vehicles shall take no action to declare as final debt

Page 2 of 6 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

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>B. Upon determination of a debt by the office of motor vehicles, it shall</b>
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

SB 387 Engrossed

1	vehicles shall transfer the debt for collection by the office of debt recovery.
2	Section 2. R.S. 47:1676(D)(1) is hereby amended and reenacted to read as follows:
3	§1676. Debt recovery
4	* * *
5	D.(1) Notwithstanding any other provision of law to the contrary, the
6	secretary of the Department of Revenue may treat a delinquent debt referral in the
7	same manner as an assessment that has become final without restriction or delay. The
8	secretary, through the office, may use any collection remedy provided by state law,
9	including installment agreements and settlement agreements, to facilitate the
10	collection of taxes to collect the delinquent debt; however, the financial institution
11	data match shall be used only in accordance with the provisions of R.S. 47:1677. The
12	office may use a participating agency's statutory collection authority to collect the
13	participating agency's delinquent debts owed to or being collected by the state. The
14	office may also use authority granted in R.S. 47:299.3 regarding offset from income
15	tax refunds or other accounts payable by the state for any delinquent debt transferred
16	by agencies. The secretary has the discretion to determine which method or
17	combination thereof is most suitable to collect the delinquent debt.
18	* * *
19	Section 3. This Act shall become effective upon signature by the governor or, if not
20	signed by the governor, upon expiration of the time for bills to become law without signature
21	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
22	vetoed by the governor and subsequently approved by the legislature, this Act shall become
23	effective on the day following such approval.

The original instrument was prepared by Leonore F. Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas F. Wade.

## DIGEST 2016 Regular Session

Cortez

<u>Present law</u> requires the office of motor vehicles to refer all final delinquent debts to the office of debt recovery. Further requires the office of motor vehicles to provide written notice to all debtors whose debt have become final before final debts are referred to the office of debt recovery informing the debtor that if the debt is not paid within 60 days that

Page 4 of 6 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions. additional collection fees will be charged.

<u>Proposed law</u> retains <u>present law</u> but changes the reference <u>from</u> "all final delinquent debt" <u>to</u> "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.

<u>Present law</u> 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 <u>present law</u>. <u>Proposed law</u> adds installment agreements to the definition. <u>Present law</u> further defines "delinquent debt" as a debt that is sixty days or more past due. <u>Proposed law</u> retains this definition. <u>Present law</u> further defines "final" to mean the amount due is no longer negotiable and the debtor has no further right of administrative and judicial review. <u>Proposed law</u> 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.

<u>Proposed law</u> provides that no fee for a debt as defined by <u>proposed law</u> 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.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> 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 <u>proposed law</u> incurred for a violation on or before June 30, 2014, shall exceed the fee amounts in effect prior the 2014, fee amount changes.

### Page 5 of 6

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# SLS 16RS-1015

- 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.