
DIGEST

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HB 683 Reengrossed

2024 Regular Session

Owen

Abstract: Revises the recovery practices of the office, and makes the referral of a final delinquent debt to the office of motor vehicles.

Present law requires the office of motor vehicles (OMV) to refer a final delinquent debt for which a debtor has not entered into an installment agreement for payment to the office of debt recovery as provided in present law. Specifies final delinquent debt referrals must include data and information in the required format necessary to institute collection procedures. Requires all delinquent debts be authenticated by the OMV prior to being referred to the office of debt recovery. Specifies that once the delinquent debt becomes final, and prior to referral to the office of debt recovery, the OMV must notify the debtor in writing that failure to pay the debt in full within 60 days will subject the debt to the maximum amount owed together with the additional fee collected by the office of debt recovery provided for in present law. Requires notice to inform the debtor that he may qualify to pay sums due by installment agreement, if eligible, and include instructions on how to inquire with the OMV to determine eligibility and terms.

Proposed law modifies present law by removing prior to the referral to the office of debt recovery, that the office of motor vehicles notifies the debtor in writing regarding failure to pay the debt.

Proposed law authorizes the office of motor vehicles, through the commissioner, to compromise and settle all debt whether such debt is delinquent debt, final debt, or a debt that has been referred to the office of debt recovery as a final delinquent debt to avoid litigation and further collection expenses of the state upon satisfactory showing of substantial compliance with the law and determination that no fee or lesser fee is due.

Present law defines "delinquent debt" as a debt that is 60 days or more past due.

Proposed law modifies present law by increasing the past due amount from as debt that 60 days or more past due to 180 days.

Present law defines "final debt" as the amount due is no longer negotiable and that the debtor has no further right of administrative and judicial review.

Proposed law removes from present law a specification that the amount due is no longer negotiable.

Proposed law retains present law but gives the office of motor vehicles the option to refer a final delinquent debt for which a debtor has not entered into an installment agreement for debt recovery

to the office of debt recovery, within the Dept. of Revenue.

Proposed law requires a debtor to provide a valid electronic mail address to the office of motor vehicles to receive all notices and updates. Specifies it is the debtor's obligation to maintain a valid electronic mail address during the entire term of any installment agreement confected pursuant to proposed law. Requires the debtor to promptly update the installment agreement system with any new or changed electronic mail address.

Present law establishes installment agreement payment schedule requires a debtor to provide fixed and equal monthly payments in the following amounts, with the first payment due upon the execution of the agreement:

- (1) If the debtor owes \$250, the debtor shall pay six equal monthly installments.
- (2) If the debtor owes from \$251 to \$750, the debtor shall pay 12 equal monthly installments.
- (3) If the debtor owes from \$751 to \$1,000, the debtor shall pay 24 equal monthly installments.
- (4) If the debtor owes from \$1,501 to \$2,500, the debtor shall pay 36 equal monthly installments.
- (5) If the debtor owes from \$2,501 to \$4,999, the debtor shall pay forty-eight equal monthly installments.
- (6) If the debtor owes \$5,000 or more, the debtor shall pay up to 60 monthly installment payments. However, the commissioner of the office of motor vehicles may grant longer payment terms for amounts of five thousand dollars or more owed based on proof of income indicating a debtor's financial limitations to pay within sixty months.

Proposed law removes the execution process in present law and gives the commissioner of the office of motor vehicles discretion to consider factors such as the debtor's income, financial obligations, as well as any other factors that affect the debtor's ability to pay the outstanding debt when the commissioner is determining the number of payments and the amount of each payment in the debtor's installment agreement.

Present law provides for the termination of installment agreement upon failure to make payment. Specifies that if any installment payment is not paid on or before the date fixed for its payment, the entire amount unpaid pursuant to the installment agreement is to be paid by the debtor within a 60 day period from the date of notice and demand from the commissioner of the office of motor vehicles. Further specifies that the notice is to advise the debtor that his driver's license will be suspended upon the expiration of the 60 day period if the payments due pursuant to the installment agreement are not made current within that 60-day period or the agreement is not reinstated by the commissioner of the office of motor vehicles within that sixty-day period. Specifies that this notice is known as "Notice of Installment Agreement Termination and Demand".

Present law requires Notice of Installment Agreement Termination and Demand satisfy all notice

requirements of R.S. 32:8 and R.S. 47:1676. Specifies in the event an installment agreement includes payment of delinquent or final debt as defined by R.S. 32:8, such notice must include all information required by R.S. 32:8. Further specifies the event that an installment agreement includes payment of delinquent or final debt as defined by R.S. 47:1676, such notice must include all information required by R.S. 47:1676. Additionally the notice required by this Paragraph must satisfy the notice requirements of R.S. 32:8 and R.S. 47:1676.

Proposed law retains present law and adds all notice requirements contained in R.S. 32:8 and R.S. 47:1676.

Present law specifies upon request of the debtor within the 60 day period from the date of the notice and demand required in present law and approval of the commissioner of the office of motor vehicles, the office of motor vehicles may reinstate the installment agreement after payment of the missed installment.

Proposed law modifies present law and specifies that the office of motor vehicles may reinstate the installment agreement after payment of all missed installments and associated late fees.

Present law specifies if no request for reinstatement of an installment agreement is made within 60 days of the notice and demand required in present law, or if the commissioner of the office of motor vehicles rejects a request to reinstate an installment agreement, the installment agreement will be terminated and any remaining sums due under the installment agreement will be delinquent and final debt as defined in present law and will apply to the following:

- (1) Sums due which are not debt as defined by present law, the office of motor vehicles may refer any unpaid balance due under the installment agreement for collection by the appropriate office pursuant to present law.
- (2) For sums due which are debt as defined by present law, the office of motor vehicles must refer any unpaid balance due under the installment agreement to the Dept. of Revenue, office of debt recovery, for collection as provided in present law.

Proposed law retains present law but makes it optional for the office of motor vehicles to refer any unpaid balance due under the installment agreement to the Dept. of Revenue, office of debt recovery, for collection as provided in present law.

Present law requires driving privileges and vehicle registration be reinstated when an installment agreement is executed by the debtor and the office of motor vehicles. Specifies that all blocks on the debtor's license record be removed at that time. Further specifies the office of motor vehicles may include the applicable fee for reinstatement of driving privileges in the total to be owed pursuant to an installment agreement entered into pursuant to present law.

Present law establishes Administration of installment agreements. Requires the Dept. of Public Safety and Corrections, public safety services, to authorize a third party, including but not limited to the Dept. of Revenue, office of debt recovery, to administer installment agreements executed

pursuant to present law. Additionally, such authorized third party may collect payments due pursuant to installment agreements executed pursuant to present law.

Present law specifies that any such authorized third party be an authorized agent of the Dept. of Public Safety and Corrections, public safety services, and may collect the following fees for each transaction completed pursuant to present law:

- (1) A fee not to exceed three dollars for each payment made pursuant to an installment agreement.
- (2) Fees authorized by present law.
- (3) Fees authorized pursuant to present law.

Specifies that the provisions of present law do not apply to services provided by the Dept. of Revenue, office of debt recovery, pursuant to this Subsection.

Further specifies that the office of motor vehicles and the office of debt recovery cannot be considered a collection agency as defined in present law.

Present law further specifies that the office of motor vehicles and the Dept. of Revenue, office of debt recovery, may adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

Proposed law creates the Reinstatement Relief Program. Specifies that the commissioner of the office of motor vehicles is authorized to implement a Reinstatement Relief Program for persons who owe reinstatement fees imposed pursuant to present law for having a lapse in insurance coverage.

Proposed law requires the commissioner to determine the amount of reinstatement fees a person owes. Specifies the person is to promptly pay the amount determined to be owed no later than 10 calendar days from the date the commissioner sets the amount that is owed. Additionally, specifies that if the person needs to make payment arrangements, the person is to execute an installment agreement with the office of motor vehicles. Further provides that such an installment agreement will only be for the amount determined to be owed by the commissioner together with all fees associated with the installment agreement as provided present law.

Proposed law specifies if a person executes an installment contract; that person must maintain eligibility to remain in the Reinstatement Relief Program only if they make all payments required in the installment agreement. Further specifies, that if a person fails to make a timely payment; and fails to pay the missed payment with the associated late fee before the next scheduled payment, the person must be removed from the Reinstatement Relief Program and will not be eligible to reenter the Reinstatement Relief Program.

Proposed law allows the commissioner to request such documentation and information from the person as is necessary to determine the amount of any payment and the number of any payment

including but not limited to income tax returns and prior bankruptcy filings.

Proposed law establishes that if the person successfully completes the Reinstatement Relief Program, the office of motor vehicle must issue documentation to the person indicating the amount of debt that was paid and the amount of debt that was forgiven.

Proposed law requires the provisions of proposed law retroactively apply to all persons whose debt on the effective date of the Act, even if the debt has already been referred to the Office of Debt Recovery.

Proposed law specifies any debt referred to the office of debt recovery on or before the effective date of this Act, will be considered delinquent debt if the debt was 60 days or more past due, as provided in Act No. 414 of the 2015 Regular Session.

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

(Amends R.S. 32:8(A)(2) and (3) and (B) and 429.4(B) and (E)-(H); Adds R.S. 32:8(D), 414(X), 429.4(A)(5) and (I) and 863.1.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make technical changes.
2. Change the definition of "delinquent debt" referring to past due date in present law from 60 days to 180 days or more past due.
3. Modify the definition of "final debt" in present law by removing "the amount due is no longer negotiable" and add that the debtor has no further right of administrative and judicial review regarding the amount.
4. Require a debtor to provide a valid electronic mail address to the office of motor vehicles to receive all notices and updates and it is the debtor's obligation to maintain a valid electronic mail address during the entire time of any installment agreement confected pursuant to present law.
5. Require the debtor to promptly update the installment agreement system with any new or changed electronic mail address.
6. Modify the installment agreement payment schedule and gives the commissioner of the office of motor vehicles the discretion to take into account several factors that affect the debtor's ability to pay the outstanding debt when determining the number of payments and the amount of each payment in the debtor's installment agreement.

7. Clarify that after the debt becomes final but before it is transferred to the office of debt recovery, the office of motor vehicles, through the commissioner, may compromise and settle to avoid litigation and further collection expenses of the state by a satisfactory showing of substantial compliance with the law and determination no fee or lesser fee is due.
8. Clarify that sums due which are defined by present law, the office of motor vehicles has the option to refer any unpaid balance under the installment agreement to the Dept. of Revenue, office of debt recovery, for collection.
9. Remove a provision that specifies that if a debtor fail to timely make an installment payment and no request for reinstatement of the installment agreement was made following the commissioner's sending the Notice of Installment Agreement Termination and Demand, or the commissioner of the office of motor vehicles rejects a request to reinstate an installment agreement, the debtor's driving privileges and motor vehicle or truck registration privileges will be suspended.
10. Clarify that the failure to make a scheduled payment in accordance with the terms of the installment agreement will result in the assessment of a late fee in the amount of twenty-five dollars which will be added to the total amount due. Upon the failure to receive a payment, the office of motor vehicle is to send an electronic mail notification to the debtor to address the matter by updating the debtor's payment information and paying the missed payment. If, after receiving the electronic mail notice, the debtor updates the payment information, pays the late fee, and submits the missed payment, the installment agreement will remain in place and no further action will be taken. As such, the missed payment and late fee must be received by the office of motor vehicles prior to the next scheduled payment date.
11. Create the Reinstatement Relief Program to be managed by the commissioner of the office of motor vehicles.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Clarify that the office of motor vehicles, through the commissioner, may compromise and settle all debt, whether such debt is delinquent debt, final debt, or a debt that has been referred to the office of debt recovery as a final delinquent debt and remove the requirement that this could only be done after the debt was final but before it was transferred to the office of debt recovery.
3. Add any debt referred to the office of debt recovery on or before the effective date of this Act, shall be considered delinquent debt if the debt was 60 days or more past due, as provided in Act No. 414 of the 2015 Regular Session.

4. Add an upon signature of the governor effective date.
5. Remove a proposed law requirement that reinstatements be offered in person at all office of motor vehicles field locations.