

Regular Session, 2013

HOUSE BILL NO. 629

BY REPRESENTATIVES BROADWATER AND JAMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact R.S. 36:451(C) and to enact R.S. 36:458(H) and R.S. 47:1676, relative to collections by the Department of Revenue; to establish the office of debt recovery within the Department of Revenue to collect certain delinquent debts owed to or collected by the state; to provide for definitions; to provide for the administration of the collection of certain debts; to authorize the office to collect certain debt of political subdivisions under certain circumstances; to provide relative to the procedure for collection of certain debts; to provide for certain requirements and limitations; to authorize the collection of a fee; to provide for the establishment of an electronic debt registry; to provide relative to the information maintained in the registry; to authorize the promulgation of rules and regulations; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:451(C) is hereby amended and reenacted and R.S. 36:458(H) is hereby enacted to read as follows:

§451. Department of Revenue; creation; domicile; composition; purposes and functions

* * *

C. The Department of Revenue shall be composed of the executive office of the secretary, the office of management and finance, the office of tax administration,

1 group I, the office of tax administration, group II, the office of tax administration,
 2 group III, the office of alcohol and tobacco control, the office of legal affairs, the
 3 office of charitable gaming, the office of debt recovery, and such other offices as
 4 shall be created by law. Whenever the secretary determines that the administration
 5 of the functions of the department may be more efficiently performed by eliminating,
 6 merging, or consolidating existing offices or establishing new offices, he shall
 7 present a plan therefor to the legislature for its approval by statute; provided that,
 8 whenever the secretary deems necessary, he may reassign the responsibility for the
 9 collection of a specific tax from one office to another office.

* * *

§458. Offices; purposes and functions

* * *

13 H. The office of debt recovery shall be responsible for, in accordance with
 14 applicable laws and under the direction of the secretary, the collection of a tax and
 15 may be responsible for the collection of delinquent debts, accounts, or claims due on
 16 behalf of other state agencies. The office of debt recovery may collect delinquent
 17 debts, accounts, or claims due to political subdivisions which are not statewide
 18 political subdivisions pursuant to a formal agreement with the Department of
 19 Revenue. Whenever the secretary deems necessary, he may reassign the
 20 responsibility for the collection of a tax, account, claims due, or other duty assigned
 21 by this Subsection to this office to another office within the department created by
 22 this Section.

Section 2. R.S. 47:1676 is hereby enacted to read as follows:

§1676. Debt Recovery

25 A. It shall be the public policy of this state to aggressively pursue the
 26 collection of accounts or claims due and payable to the state of Louisiana through all
 27 reasonable means. The office of debt recovery, hereinafter referred to as "office",
 28 within the Department of Revenue shall serve as a debt collecting entity for the state
 29 and in that capacity shall collect delinquent debts on behalf of all state agencies

1 which refer delinquent debt to the office for collection. All debts owed to the state
2 shall be referred to either the Attorney General's office or to the office of debt
3 recovery for collection. However, all state agencies which do not have a contract
4 with the Attorney General's office for debt collection on or before January 1, 2013,
5 shall refer all delinquent debts to the office for collection when the debt has been
6 delinquent for sixty days. All agencies which do not have collection contracts with
7 the Attorney General's office shall begin to refer delinquent debts to the office no
8 later than January 1, 2014.

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

11 (1) "Agency" means any state office, department, board, commission,
12 institution, division officer or other person, or functional group, existing or created,
13 that is authorized to exercise, or that does exercise, any function of state government
14 in the executive branch, but does not mean any governing body or officer of any
15 local government or subdivision of the state, or any parochial officer who exercises
16 functions coterminous with the municipality in which he performs those functions.

17 (2) "Authenticated" means that the referring agency has certified the amount
18 of the delinquent debt, the debtor's liability, the debtor's name, address, telephone
19 number, and social security number.

20 (3) "Debt" means any legally collectible liquidated sum due and owing an
21 agency, or due and owing a person and collectible by any agency, or a judgment,
22 order of the court, or bond forfeiture which is properly certified by the clerk and
23 which orders the payment of a fine or other court-ordered penalty. The legally
24 collectible and liquidated sum due includes principal and accruing interest, fees, and
25 penalties, if appropriate.

26 (4) "Department" means the Louisiana Department of Revenue.

27 (5) "Delinquent debt" means a debt that is sixty days or more past due.

28 (6) "Final" means the amount due is no longer negotiable and that the debtor
29 has no further right of administrative or judicial review.

1 (7) "Office" means the office of debt recovery within the Department of
2 Revenue.

3 (8) "Secretary" means the secretary of the Department of Revenue.

4 C.(1) Notwithstanding any other provision of law to the contrary, in addition
5 to any duties, powers, or responsibilities otherwise conferred, the secretary of the
6 Department of Revenue, through the office of debt recovery, shall collect and
7 enforce certain delinquent debts due to state agencies according to rules promulgated
8 by the department.

9 (2)(a) No later than January 1, 2014, state agencies which do not have
10 collection contracts with the attorney general's office for the collection of delinquent
11 debts shall refer all delinquent debts to the office as provided by rule. Such referrals
12 shall include data and information in the required format necessary to institute
13 collection procedures. All debts must be final and authenticated by the state agency
14 prior to being referred to either the office or to the attorney general's office.

15 (b) After transferring the debt to the office for collection, the referring state
16 agency or political subdivision shall terminate all collection activities with respect
17 to that debt except to provide assistance to the office as may be requested. The
18 department shall notify the debtor by letter, within fifteen days of receiving the
19 referral, that such debt has been referred to the office for collection. Upon receipt
20 of the debt referral, the office shall assume all liability for its actions without
21 recourse to the agency or political subdivision and shall comply with all applicable
22 state and federal laws governing the collection of the debt. For purposes of this
23 Section, the office shall not be considered a collection agency as defined in R.S.
24 9:3534.1.

25 (3) The office may collect delinquent debts owed to political subdivisions
26 which are not statewide political subdivisions, pursuant to a formal agreement with
27 the department.

1 (4) At the discretion of the secretary, the department may contract with the
2 attorney general's office or a third-party collection contractor for the collection of
3 delinquent debt on behalf of the office.

4 D.(1) Notwithstanding any other provision of law to the contrary, the
5 secretary of the Department of Revenue may treat a delinquent debt referral in the
6 same manner as an assessment that has become final without restriction or delay.
7 The secretary, through the office, may use any collection remedy provided by state
8 law to facilitate the collection of taxes to collect the delinquent debt. The office may
9 use a participating agency's or political subdivision's statutory collection authority
10 to collect the participating agency's delinquent debts owed to or being collected by
11 the state. The office may also use authority granted in R.S. 47:299.3 regarding offset
12 from income tax refunds or other accounts payable by the state for any delinquent
13 debt transferred by state agencies and agencies of political subdivisions. The
14 secretary has the discretion to determine which method or combination thereof is
15 most suitable to collect the delinquent debt.

16 (2) The office may exercise the same authority granted in R.S. 46:236.1.4
17 and may assume the obligation for the payment of such services in order to collect
18 delinquent debt. No financial institution, including directors, officers, employees,
19 attorneys, accountants, or other agents, which provides information to the office shall
20 be liable civilly or criminally for the disclosure of such information pursuant to the
21 provisions of this Section.

22 E. The office shall charge the debtor a fee not to exceed twenty-five percent
23 of the total liability of the delinquent debt. Fees collected under this Subsection shall
24 be retained by the office after the debt is collected. The office shall transfer any
25 monies collected from a debtor to the referring agency within thirty days after the
26 end of the month in which the monies were collected. Money received by the
27 secretary from the fees imposed pursuant to this Section are designated self-
28 generated revenues of the department.

1 F. Notwithstanding any law to the contrary, state agencies shall be
2 authorized to transmit data to the office of debt recovery deemed necessary by the
3 secretary to aid in the collection efforts of the office. The secretary shall establish
4 a centralized electronic debt registry to compile the information provided by state
5 agencies and participating political subdivisions and shall maintain all information
6 provided from all sources within the state concerning addresses, financial records,
7 and any other information useful in assisting the office in collection services of the
8 centralized registry. The data compiled in the registry from the department, referring
9 agencies, and the office shall be available for cross-referencing and for the
10 identification of debtors necessary for the collection of delinquent debt. However,
11 all data, records and files utilized for debt collection as provided herein shall be
12 deemed confidential and privileged, and no person shall divulge or disclose any
13 information obtained from such records and files except in the administration and
14 enforcement of these provisions.

15 G. The secretary shall promulgate rules and regulations in accordance with
16 the Administrative Procedure Act to implement the provisions of this Section,
17 including rules authorizing any reasonable procedure or requirement for agencies
18 or political subdivisions referring delinquent debt to the department for collection
19 and any requirements regarding information necessary to collect the debt and the
20 formatting of that information. Any rule promulgated by the department shall be
21 construed in favor of the secretary.

22 H. Reciprocal debt collection agreement with federal government. The
23 secretary may enter into a reciprocal collection and offset of indebtedness agreement
24 with the federal government, pursuant to which the state shall agree to offset from
25 state tax refunds and payments otherwise due to vendors and contractors providing
26 goods or services to state agencies, non-tax debt owed to the federal government, and
27 the federal government shall agree to offset from federal payments to vendors,
28 contractors and taxpayers debt owed to the state.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Broadwater

HB No. 629

Abstract: Establishes the office of debt recovery within the Dept. of Revenue which shall aid in the collection of delinquent debts on behalf of state agencies which do not have debt collection contracts with the attorney general's office.

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 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.

Proposed law authorizes the Dept. of Revenue (DOR), office of debt recovery, hereinafter "office", to serve as a debt collecting entity for the state for the collection of delinquent debts on behalf of all state agencies which refer delinquent debt to the office for collection.

Proposed law requires all debts owed to the state to be referred to either the attorney general's office or to the office of debt recovery for collection. However, all state agencies which do not have a contract with the attorney general's office for debt collection on or before Jan. 1, 2013, shall refer all delinquent debts to the office for collection when the debt has been delinquent for 60 days. All agencies which do not have collection contracts with the attorney general's office shall begin to refer delinquent debts to the office no later than Jan. 1, 2014. Defines "debt" 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 the clerk and which orders the payment of a fine or other court ordered penalty. Further provides that the legally collectible and liquidated sum due includes principle and accruing interest, fees, and penalties, if appropriate.

Proposed law requires that all debts be final and authenticated by the state agency prior to being referred to either the office or the attorney general. Further requires the office to comply with all state and federal law applicable to the collection of the debt and for the state to assume all liability for its actions without recourse to the agency or political subdivision owed the debt.

Proposed law permits the office to collect delinquent debts owed to political subdivisions which are not statewide political subdivisions pursuant to a formal agreement with the department.

Proposed law authorizes the secretary to contract with the Attorney General's office or a third-party collection contractor for the collection of delinquent debt on behalf of the office.

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. Grants the secretary discretion to determine which collection method or combination of methods is most suitable to collect the delinquent debt.

Proposed law additionally authorizes the office to exercise the same authority granted in present law and to assume the obligation for the payment of such services in order to collect delinquent debt. No financial institution, including directors, officers, employees, or other agents, which provides information to the office shall be liable civilly or criminally for the disclosure of such information.

Proposed law requires the department to charge the debtor a fee not to exceed 25% of the of the total delinquent debt liability. Fees collected according to the provisions of proposed law shall be retained by the office after the debt is collected. Requires DOR to transfer any monies collected from a debtor to the referring agency within 30 days after the end of the month in which the collection was made.

Proposed law provides that money received by the secretary from the fees imposed pursuant to proposed law shall be designated self-generated revenues of the department.

Proposed law authorizes state agencies to transmit data to the office deemed necessary to aid in the collection efforts of the office. Requires the secretary to establish and maintain 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 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 divulge or disclose any information obtained from such records and files except in the administration and enforcement of these provisions.

Proposed law requires the department to promulgate rules and regulations in accordance with the APA to implement the provisions of proposed law. Further provides that any rule promulgated by the department shall be construed in favor of the secretary.

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

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

(Amends R.S. 36: 36:451(C); Adds R.S. 36:458(H) and R.S. 47:1676)