

1 within the Department of Revenue shall serve as a debt collecting entity for the state
2 and in that capacity shall collect delinquent debts on behalf of all state agencies
3 which refer delinquent debt to the office for collection. All debts owed to the state
4 shall be referred to either the attorney general's office or to the office of debt
5 recovery for collection. However, all state agencies which do not have a contract
6 with the attorney general's office for debt collection on or before January 1, 2013,
7 shall refer all delinquent debts to the office for collection when the debt has been
8 delinquent for sixty days. All agencies which do not have collection contracts with
9 the attorney general's office shall begin to refer delinquent debts to the office no later
10 than January 1, 2014.

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

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

19 (2) "Authenticated" means that the referring agency has certified the amount
20 of the delinquent debt, the debtor's liability, the debtor's name, address, telephone
21 number, social security number, and the federal or state taxpayer identification
22 number.

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

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

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

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

4 (7) "Office" means the office of debt recovery within the Department of
5 Revenue.

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

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

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

18 (b) After transferring the debt to the office for collection, the referring state
19 agency or political subdivision shall terminate all collection activities with respect
20 to that debt except to provide assistance to the office as may be requested. The
21 department shall notify the debtor by letter, within fifteen days of receiving the
22 referral, that such debt has been referred to the office for collection. Upon receipt
23 of the debt referral, the office shall assume all liability for its actions without
24 recourse to the agency or political subdivision and shall comply with all applicable
25 state and federal laws governing the collection of the debt. For purposes of this
26 Section, the office shall not be considered a collection agency as defined in R.S.
27 9:3534.1.

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

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

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

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

25 (3) The office shall be granted and may exercise the authority granted in R.S.
26 47:296.2 and 296.3. Additionally, the office shall be allowed to suspend, revoke,
27 deny, or request the suspension, revocation, or denial of any professional license or
28 other license or permit issued, granted, or renewed by the state of Louisiana due to
29 a debtor owing the state a delinquent debt. In exercising the authority provided for

1 in this Section or in R.S. 47:296.2 or 296.3, the office may assume the obligation for
2 the payment of such services in order to collect delinquent debt.

3 (4) The office shall be authorized to withhold, offset, levy, garnish, or seize
4 payments of progressive slot machine annuities and cash gaming winnings in the
5 same manner set forth in R.S. 27:24 and may assume the obligation for payment of
6 such services in order to collect delinquent debt.

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

14 F. Notwithstanding any law to the contrary, state agencies shall be
15 authorized to transmit data to the office of debt recovery deemed necessary by the
16 secretary to aid in the collection efforts of the office. The secretary shall establish
17 a centralized electronic debt registry to compile the information provided by state
18 agencies and participating political subdivisions and shall maintain all information
19 provided from all sources within the state concerning addresses, financial records,
20 and any other information useful in assisting the office in collection services of the
21 centralized registry. The data compiled in the registry from the department, referring
22 agencies, and the office shall be available for cross-referencing and for the
23 identification of debtors necessary for the collection of delinquent debt. However,
24 all data, records, and files utilized for debt collection as provided herein shall be
25 deemed confidential and privileged, and no person shall divulge or disclose any
26 information obtained from such records and files except in the administration and
27 enforcement of these provisions.

28 G. The secretary shall promulgate rules and regulations in accordance with
29 the Administrative Procedure Act to implement the provisions of this Section,

1 including rules authorizing any reasonable procedure or requirement for agencies
2 or political subdivisions referring delinquent debt to the department for collection
3 and any requirements regarding information necessary to collect the debt and the
4 formatting of that information. Any rule promulgated by the department shall be
5 construed in favor of the secretary.

6 H. Reciprocal debt collection agreement with federal government. The
7 secretary may enter into one or more reciprocal collection and offset of indebtedness
8 agreements with the federal government, pursuant to which the state shall agree to
9 offset from state tax refunds and payments otherwise due to vendors and contractors
10 providing goods or services to state agencies, non-tax debt owed to the federal
11 government, and the federal government shall agree to offset from federal payments
12 to vendors, contractors, and taxpayers debt owed to the state.

13 I. After the office exercises and employs its collection methods and tools, it
14 shall evaluate and recommend any uncollectible debt for sale or securitization in
15 accordance with the provisions of R.S. 39:88.2 and 88.3.

16 Section 3. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 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 authorizes the office to exercise authority granted pursuant to present law relative to the suspension or denial of drivers' licenses, the suspension, revocation, or denial of hunting or fishing licenses, or to withhold, offset, levy, garnish, or seize payments of progressive slot machine annuities and cash gaming winnings in collecting delinquent debt. Further authorizes the office to suspend, revoke, deny, or request the suspension, revocation, or denial of any license, professional license, or permit issued, granted, or renewed by the state due to a debtor owing the state a 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 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.

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.

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

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

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Added authorization for the office to exercise authority pursuant to present law relative to the suspension or denial of drivers' licenses, the suspension, revocation, or denial of hunting or fishing licenses, or to withhold, offset, levy, garnish, or seize payments of progressive slot machine annuities and cash gaming winnings in collecting delinquent debt.
2. Added authorization for the office to withhold, offset, levy, or garnish gaming winnings in collecting delinquent debt.
3. Added federal or state taxpayer identification numbers to the information a referring agency must certify before send the delinquent debt to the office or the attorney general for collection.
4. Required the office to evaluate and recommend any uncollectible debt for sale or securitization after the office exercises its collection methods and tools.