2015 Regular Session

HOUSE BILL NO. 774

### BY REPRESENTATIVE THIERRY

# FEES/LICENSES/PERMITS: Provides relative to fees charged by the Department of Revenue

1	AN ACT
2	To amend and reenact R.S. 47:15(16), 105(A) and (B), 299.5, 1507, and 1578(B)(4)(c), and
3	to enact R.S. 47:1578(B)(4)(d) and (e), relative to the Department of Revenue; to
4	provide for installment agreements for the payment of taxes due and to establish
5	associated fees; to establish fees for offset claims; to establish fees for the
6	authentication of tax records; to establish fees and payments required to apply for
7	compromises of judgments; to establish procedures relative to the payment of these
8	amounts; to provide for effectiveness; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 47:15(16), 105(A) and (B), 299.5, 1507, and 1578(B)(4)(c) are
11	hereby amended and reenacted, R.S. 47:1578(B)(4)(d) and (e) are hereby enacted to read as
12	follows:
13	§15. Taxpayer's Bill of Rights
14	There is hereby established a Taxpayer's Bill of Rights to guarantee that the
15	rights, privacy, and property of Louisiana taxpayers are safeguarded and protected
16	during tax assessment, collection, and enforcement processes administered under the
17	tax laws of this state. This Taxpayer's Bill of Rights consists of a statement, in
18	nontechnical terms, of the rights and obligations of the Department of Revenue and
19	taxpayers. The rights afforded taxpayers to assure that their privacy and property are

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	safeguarded and protected during tax assessment and collection are available only		
2	insofar as they are implemented in accordance with the Constitution of Louisiana and		
3	Louisiana Revised Statutes of 1950 or the administrative rules of the Department of		
4	Revenue. The rights assured Louisiana taxpayers are:		
5	* * *		
6	(16) The right to ask the Department of Revenue to consider an installment		
7	payment agreement for taxes, interest, and penalties due in accordance with R.S.		
8	47:105. If a taxpayer qualifies for an installment payment agreement, no further		
9	collection action will be taken as long as the taxpayer complies with the installment		
10	payment agreement.		
11	* * *		
12	§105. Payment of tax		
13	A. Time of payment. The total amount of tax <u>due</u> on a <del>calendar or fiscal</del>		
14	year income tax return shall be paid on the date the return is required by law to be		
15	filed determined without regard to any extension of time for filing the return. The		
16	full amount of tax disclosed by the return as filed shall constitute an assessment at		
17	that time, and shall be recorded as an assessment in the records of the secretary.		
18	B. Installment Payment Fee. Installment payments for taxable years which		
19	end prior to January 1, 1961. For taxable years ending prior to January 1, 1961, the		
20	taxpayer may elect to pay the tax in three equal installments, in which case the first		
21	installment shall be paid on the date prescribed for the payment of the tax by the		
22	taxpayer or on the date the return is filed, whichever is earlier; the second installment		
23	shall be paid on the fifteenth day of the third month following the due date for filing		
24	the return; and the third installment shall be paid on the fifteenth day of the sixth		
25	month following the due date for filing the return. If any installment is not paid on		
26	or before the date fixed for its payment, the whole amount of tax unpaid shall be paid		
27	upon notice and demand from the collector.		
28	(1) The secretary shall charge a fee of one hundred five dollars to establish		
29	a standard installment payment agreement with a taxpayer. All payments for		

1	installment payment agreement fees shall be paid to the secretary of revenue. The
2	secretary may adopt rules and regulations in accordance with the Administrative
3	Procedure Act to implement the fee provided for in this Section.
4	(2) If the taxpayer defaults on the installment payment agreement, the
5	secretary shall charge a fee of sixty dollars to reinstate the agreement. Payment of
6	the reinstatement fee shall be made to the secretary of revenue.
7	(3) Notwithstanding the provisions of Paragraph (1) of this Subsection, the
8	secretary shall not charge a fee to enter into a standard installment payment
9	agreement with any taxpayer whose adjusted gross income is less than or equal to
10	twenty-five thousand dollars.
11	(4) Money received by the secretary from fees imposed pursuant to this
12	Section shall be deposited into the state treasury and, after compliance with the
13	requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative
14	to the Bond Security and Redemption Fund, shall be designated as self-generated
15	revenues of the Department of Revenue.
16	* * *
17	§299.5. Procedure for making offset claims
18	Any agency making an offset claim to the secretary shall make said claim in
19	writing to the office of the secretary and shall include with regard to each claim
20	information required by promulgated rule and regulation of the secretary as provided
21	for in this Part. Such writing shall also include a certification by the agency that the
22	debts for which claims of offset are made are legally collectible, liquidated sums due
23	and owing the agency or due and owing a person and collectible by the agency. The
24	agency shall pay to the secretary a fee of four twenty-five dollars for each offset
25	claim.
26	* * *
27	§1507. Authentication of collector's secretary's records; fees for searching for
28	documents

1	A. The secretary shall establish by rules and regulations promulgated
2	pursuant to the Administrative Procedure Act, a reasonable fee schedule to collect
3	fees for authenticating a copy of any document in its records as a true copy, and to
4	collect fees and costs associated with searching for tax returns and correspondence.
5	Such fee schedule may be modified by rule or regulation as deemed necessary by the
6	secretary.
7	B. Authentication. Copies of any rule, decision, or order of the collector
8	secretary, and of any paper or report filed in any office maintained by him in the
9	administration of this Sub-title, may be authenticated under his signature, and when
10	so authenticated, shall be evidence in all courts of this state, with the same force and
11	weight as the originals thereof. For authenticating any such copy, the collector
12	secretary may charge a fee of one dollar (\$1.00) not to exceed twenty-five dollars
13	which must be deposited to the operating account of his department.
14	C. Fees for searching for tax returns. In any case where the taxpayer
15	requests or authorizes the release of copies of any previously filed tax returns or any
16	other document subject to the provisions of R.S. 47:1508, the secretary is authorized
17	to charge a fee, regardless of whether or not the information is located. The fee
18	associated with searching for any return or document shall not exceed fifteen dollars
19	for each year or period requested. For a certified copy of a return or other document,
20	the search fee for each year or period requested shall not exceed twenty-five dollars.
21	D. Money received by the secretary from all fees imposed pursuant to this
22	Section shall be deposited immediately upon receipt into the state treasury and, after
23	compliance with the requirements of Article VII, Section 9(B) of the Constitution of
24	Louisiana relative to the Bond Security and Redemption Fund, shall be designated
25	as self-generated revenues of the Department of Revenue.
26	* * *
27	§1578. Cancellation of lien, privilege, and mortgage; compromises
28	* * *

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1	B. In other cases, the secretary may authorize the cancellation or release of			
2	a lien, privilege, or mortgage subject to the following terms and conditions:			
3	* * *			
4	(4)			
5	* * *			
6	(c) A complete record of all such compromises shall be kept by the secretary			
7	shall be open to public inspection, and, notwithstanding the provisions of R.S			
8	47:1508 and 1508.1, each such compromise shall be published in the department's			
9	annual report. Each application for compromise of a judgment shall be accompanied			
10	by a nonrefundable application fee of one hundred eighty-six dollars, made payable			
11	to the secretary of revenue. Money received by the secretary from this fee shall be			
12	deposited into the state treasury and, after compliance with the requirements of			
13	Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond			
14	Security and Redemption Fund, shall be designated as self-generated revenues of the			
15	Department of Revenue.			
16	(d) The submission of any offer in compromise shall be accompanied by a			
17	nonrefundable initial payment of twenty percent of the amount of the offer. This			
18	payment shall be applied to the tax liability.			
19	(e) A complete record of all such compromises shall be kept by the secretary,			
20	shall be open to public inspection, and, notwithstanding the provisions of R.S.			
21	47:1508 and 1508.1, each such compromise shall be published in the department's			
22	annual report.			
23	Section 2. This Act shall become effective on July 1, 2015; if vetoed by the governor			
24	and subsequently approved by the legislature, this Act shall become effective on July 1,			
25	2015, or on the day following such approval by the legislature, whichever is later.			

#### 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)]

HB 774 Original	2015 Regular Session	Thierry
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Abstract: Provides relative to fees charged by the Department of Revenue.

Present law provides for taxpayer election of installment payments for taxes due.

<u>Proposed law</u> sets fees for the establishment of installment agreements at \$105 fee for a standard installment agreement and a \$60 fee for defaults. Authorizes the department to promulgate rules and regulations in accordance with the APA to implement proposed law.

Present law provides for a \$4 fee to be charged for offset claims.

Proposed law increases fees for offset claims from \$4 to \$25 per claim.

<u>Present law</u> provides for a \$1 fee for the authentication of records.

<u>Proposed law</u> increases the fee for the authentication of records <u>from</u> \$1 to an amount not to exceed \$25 and establishes fees to be paid for the searching for tax records.

Present law provides for compromises of judgments.

<u>Proposed law</u> establishes a \$186 nonrefundable application fee for compromises of judgments and requires a nonrefundable initial payment of 20% of the amount of the offer in compromise.

(Amends R.S.47:15(16), 105(A) and (B), 299.5, 1507, and 1578(B)(4)(c); Adds R.S. 47:1578(B)(4)(d) and (e))