

2016 Regular Session

SENATE BILL NO. 410

BY SENATOR BROWN

MOTOR VEHICLES. Provides relative to payment for fees and fines due the office of motor vehicles. (gov sig)

AN ACT

To amend and reenact R.S. 32:8, 57.1(C), 863(A)(3)(a), and 863.1(C)(1)(b) and to enact R.S. 32:9, 10 and 11, relative to motor vehicles; to provide for payment of monies owed to the office of motor vehicles; to authorize the office of motor vehicles to enter into installment agreements; to authorize the office of motor vehicles to register motor vehicles and issue driver's licenses to persons during the term of an installment agreement; to authorize offer in compromise; to require the office of motor vehicles to offer a debt amnesty program; to provide for an amnesty period and requirements; to authorize the promulgation of rules and regulations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:8, 57.1(C), 863(A)(3)(a), and 863.1(C)(1)(b) are hereby amended and reenacted and R.S. 32:9, 10, and 11 are hereby enacted to read as follows:

§8. ~~Final delinquent~~ **Delinquent** debt; office of motor vehicles

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

(1) "Debt" means any legally collectible liquidated sum due and owed to the

1 Department of Public Safety and ~~Correction~~ Corrections, office of motor vehicles,
2 pursuant to R.S. 32:57.1, 863, or 863.1.

3 (2) "Delinquent debt" means a debt that is sixty days or more past due and
4 for which the debtor has not entered into an installment agreement with the
5 office of motor vehicles for payment.

6 (3) "Final debt" means the amount due is no longer negotiable and that the
7 debtor has no further right of administrative and judicial review. No debt shall be
8 final during the term of an installment agreement between the office of motor
9 vehicles and the debtor.

10 (4) "Offer in compromise" means an offer of payment in full of a
11 delinquent or final debt for less than the full amount of the debt due.

12 (5) "Non-final delinquent debt" means any debt that the office of motor
13 vehicles has notified the debtor is owed but remains unpaid, due, or negotiable
14 for a period of ninety days or more and the debtor has further administrative
15 or judicial review rights to challenge the validity of the debt or the amount
16 owed.

17 (6) "Office of motor vehicles" means the Department of Public Safety and
18 Corrections, office of motor vehicles.

19 B.(1) The office of motor vehicles shall refer all final and non-final
20 delinquent debts to the office of debt recovery as provided in R.S. 47:1676. Final
21 and non-final delinquent debt referrals shall include data and information in the
22 required format necessary to institute collection procedures.

23 (2) All delinquent debts shall be authenticated by the office of motor
24 vehicles prior to being referred to the office of debt recovery.

25 (3) ~~Once the~~ When delinquent debt becomes final, and prior to referral to the
26 office of debt recovery, the office of motor vehicles shall notify the debtor in writing
27 that failure to pay the debt in full within sixty days shall subject the debt to the
28 ~~maximum amount owed together with the~~ additional fee collected by the office of
29 debt recovery provided for in R.S. 47:1676.

1 C. The office of motor vehicles may promulgate rules and regulations in
2 accordance with the Administrative Procedure Act necessary to implement the
3 provisions of this Section, including rules for referring ~~final delinquent~~ debt to the
4 office of debt recovery.

5 **§9. Installment agreement; debt due the office of motor vehicles**

6 **A.(1) The office of motor vehicles may enter into an installment**
7 **agreement with eligible persons to pay debt for fines, penalties, and fees due to**
8 **the office of motor vehicles as defined in R.S. 32:8.**

9 **(2) The office of motor vehicles shall send notice of outstanding fines,**
10 **penalties, and fees owed to the debtor as provided in R.S. 32:852(E). The notice**
11 **shall inform the debtor that he may qualify to pay outstanding fines, penalties,**
12 **and fees by installment agreement. The notice shall inform the debtor of the**
13 **time period to apply for an installment agreement and the eligibility**
14 **requirements for and terms applicable to the installment agreement.**

15 **(3) The office of motor vehicles shall develop an official form for an**
16 **installment agreement authorized by this Section. No installment agreement**
17 **shall be valid unless it is on this form.**

18 **B. A debtor who owes the office of motor vehicles five hundred dollars**
19 **or more in outstanding fines, penalties, or fees, or any combination thereof, is**
20 **eligible to pay such amounts by means of an installment agreement provided the**
21 **debtor meets all of the following conditions:**

22 **(1) All reinstatement conditions except payment of outstanding fines,**
23 **penalties, and fees due to the office of motor vehicles are satisfied.**

24 **(2) The debtor requests an installment agreement in the time period**
25 **provided in the notice to the debtor from the office of motor vehicles.**

26 **C. Installment agreements between the office of motor vehicles and a**
27 **debtor shall be in writing and signed by both parties.**

28 **D. The terms of an installment agreement shall provide for the following:**

29 **(1) A requirement that the debtor shall pay twenty percent of**

1 outstanding fines, penalties, and fees due to the office of motor vehicles upon
2 execution of the agreement.

3 (2) A requirement that the debtor shall pay the remaining outstanding
4 fines, penalties, and fees owed in not more than four installments.

5 (3) Authorize the debtor to prepay any amount due under the installment
6 agreement in full at any time without penalty.

7 E.(1) All payments made pursuant to an installment agreement shall be
8 paid by check, bank draft, post office money order, express money order,
9 electronic funds transfer, or credit or debit cards. Credit card and debit card
10 payments shall be assessed a convenience fee as provided in R.S. 49:316.1.

11 (2) The office of motor vehicles shall issue a receipt to a debtor each time
12 he makes a payment on an installment agreement that shows the amount paid
13 and the amount outstanding under the installment agreement.

14 F.(1) If any installment payment is not paid on or before the date fixed
15 for its payment, the entire unpaid balance due under the installment agreement
16 shall be paid by the debtor not later than thirty days from the date of notice and
17 demand from the office of motor vehicles. The notice shall further advise the
18 debtor that his driver's license shall be suspended upon the expiration of the
19 thirty-day period if payment due under the installment agreement is not made
20 within that thirty-day period.

21 (2) The office shall reinstate the installment agreement with a debtor
22 who makes payment of a missed installment provided the debtor makes
23 payment not later than thirty days from the date of notice.

24 (3) If a debtor fails to pay and the office of motor vehicles terminates the
25 installment agreement, the office of motor vehicles shall refer any balance due
26 under the installment agreement to the Department of Revenue, office of debt
27 recovery, for collection as provided in R.S. 47:1676.

28 G.(1) A debtor's Class "E" driver's license and motor vehicle
29 registration shall be reinstated and all blocks on the debtor's record shall be

1 removed upon execution of an installment agreement between the debtor and
2 the office of motor vehicles. Applicable reinstatement fees for a driver's license
3 and motor vehicle registration may be included in the amount due under an
4 installment agreement entered into pursuant to this Section.

5 (2) If a debtor misses an installment payment and fails to request
6 reinstatement of an installment agreement, the debtor's driver's license and
7 motor vehicle registration shall be suspended thirty days after the date of notice
8 from the office of motor vehicles. The provisions of R.S. 32:414 shall apply to
9 judicial review and reinstatement of the suspension.

10 H. The office of motor vehicles may adopt rules and regulations not
11 inconsistent with the provisions of this Section to implement the provisions of
12 this Section in accordance with the Administrative Procedures Act.

13 **§10. Offer in compromise; debt due office of motor vehicles**

14 A.(1) The office of motor vehicles may negotiate for final payment of
15 delinquent debt as an offer in compromise with eligible persons for fines,
16 penalties, and fees due to the office as defined in R.S. 32:8.

17 (2) All notices of outstanding fines, penalties, and fees owed to the office
18 shall inform the debtor that he may qualify to pay sums due under an offer in
19 compromise and to inquire with the office to determine eligibility and terms.

20 B. The office of motor vehicles may reduce the total amount of debt by
21 an amount not to exceed twenty-five percent of the debt in exchange for full
22 payment in lieu of payment by installment agreement.

23 C. Notwithstanding any other law to the contrary, at no time shall the
24 total amount of penalties, fines, and fees due to the office of motor vehicles
25 assessed to a debtor under R.S. 32:57.1, 863, and 863.1 exceed the maximum
26 amount of four thousand dollars.

27 D. The office of motor vehicles may adopt rules and regulations not
28 inconsistent with the provisions of this Section to implement the provisions of
29 this Section in accordance with the Administrative Procedures Act.

1 §11. Debt amnesty program; office of motor vehicles

2 A. The office of motor vehicles shall develop and implement a debt
3 amnesty program to collect debt for fines, penalties, and fees due to the office
4 of motor vehicles as defined in R.S. 32:8. The office shall publicize the debt
5 amnesty program to maximize the public's awareness of and participation in
6 the program.

7 B. The debt amnesty program shall be effective for a period of at least
8 two months duration in 2016 occurring prior to December 31, 2016.

9 C. The debt amnesty program shall apply to debt due to the Department
10 of Public Safety and Corrections, office of motor vehicles, pursuant to R.S.
11 32:57.1, 863, or 863.1 on the effective date of this Section.

12 D. Debtors with debt in the amount of one thousand dollars or more are
13 eligible to participate in the debt amnesty program. Amnesty debt payments
14 shall be paid in full during the amnesty period.

15 (1) If a debtor has debt of one thousand dollars or more for violation or
16 multiple violations of R.S. 32:57.1, the amnesty debt payment due shall not
17 exceed five hundred dollars.

18 (2) If a debtor has debt of one thousand dollars or more for violation or
19 multiple violations, pays the debt in full during the amnesty period, and
20 provides proof of insurance, the amnesty debt payment due shall not exceed
21 eight hundred fifty dollars for debt incurred pursuant to R.S. 32:863(A)(1) and
22 shall not exceed one thousand seventy-five dollars for debt incurred pursuant
23 to R.S. 32:863(A)(2).

24 (3) If a debtor has debt of one thousand dollars or more for violation or
25 multiple violations of R.S. 32:863.1, pays the debt in full during the amnesty
26 period, and provides proof of insurance, the amnesty debt payment due shall
27 not exceed five hundred dollars.

28 (4) No amnesty payment for debt of a person sixty-five years or older,
29 including administrative fees, shall exceed two hundred fifty dollars.

1 **E. Upon receipt of the amnesty payment, the office of motor vehicles**
 2 **shall clear the debtor's record at the office of motor vehicles and reinstate the**
 3 **debtor's driver's license and motor vehicle registration.**

4 * * *

5 §57.1. Failure to honor written promise to appear; penalty; disposition of fines

6 * * *

7 C. If after sixty calendar days from the date of the notification issued by the
 8 Department of Public Safety and Corrections as required in Subsection A of this
 9 Section the arrested person has failed to comply, **to enter into an installment**
 10 **agreement, or to enter into an offer in compromise with the office of motor**
 11 **vehicles**, the fees provided for in this Section shall be considered final delinquent
 12 debt. **If the person has entered into an installment agreement and missed a**
 13 **payment, the provisions of R.S. 32:9(F)(3) shall govern when the fees provided**
 14 **for in this Section shall be considered final delinquent debt.**

15 * * *

16 §863. Sanctions for false declaration; reinstatement fees; revocation of registration;
 17 review

18 A.

19 * * *

20 (3)(a) Sanctions for a violation of Paragraph (1) of this Subsection shall be
 21 imposed until proof of required liability security is provided to the secretary and all
 22 reinstatement fees are paid **or an installment agreement is executed to provide for**
 23 **payment of such reinstatement fees.** Sanctions for a violation of Paragraph (2) of
 24 this Subsection shall be imposed for a period of not less than twelve months ~~nor~~
 25 ~~more than eighteen months.~~ However, in no event shall these sanctions be removed
 26 until such time as proof of the required security is provided to the secretary along
 27 with all appropriate fees required by law, including a reinstatement fee of one
 28 hundred dollars per violation of Paragraph (1) of this Subsection if the vehicle was
 29 not covered by the required security for a period of one to thirty days, two hundred

fifty dollars if the vehicle was not covered by required security for a period of thirty-one to ninety days, and five hundred dollars if the vehicle was not covered by required security for a period in excess of ninety days. No reinstatement fee shall be imposed by the secretary if the vehicle was not covered by required security for a period of ten days or less and the insured surrenders the vehicle's license plate to the secretary within ten days. The reinstatement fees for violations of Paragraph (2) of this Subsection shall be as follows: two hundred fifty dollars for a first violation, five hundred dollars for a second violation, and one thousand dollars for a third or subsequent violation. The reinstatement fee shall not be owed for an alleged violation of Paragraph (2) of this Subsection when proof of the required security is provided to the secretary within sixty days of the date of the notice. If at the time of reinstatement, a person has multiple violations and is within sixty days of the notice, the total amount of fees to be paid shall not exceed eight hundred fifty dollars, for violations of Paragraph (1) of this Subsection, one thousand seventy-five dollars for violations of Paragraph (2) of this Subsection. At no time shall the total amount of fees, including administrative fees, exceed two hundred fifty dollars for persons sixty-five years or older. After sixty days of the date of the notice or if an installment agreement has not been entered into, all fees shall be considered final delinquent debt and therefore owed, ~~and the eight hundred fifty dollar limit for persons under sixty-five years shall no longer apply.~~ If the person has entered into an installment agreement and missed a payment, the provisions of R.S. 32:9(F)(3) shall govern when the fees provided for in this Section shall be considered final delinquent debt.

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§863.1. Evidence of compulsory motor vehicle liability security contained in vehicle; enforcement; penalty; fees

* * *

C.(1)

* * *

(b) The owner of the vehicle shall have three calendar days, excluding Saturdays, Sundays, and legal holidays, from the date that the notice of noncompliance was issued to present to the office of motor vehicles proof of insurance coverage or security in effect at the time of the issuance of the notice of noncompliance. If the vehicle was properly insured at the time the notice was issued, any valid license plate shall be returned within forty-eight hours, exclusive of legal holidays, to the owner of the vehicle at no cost to the owner. However, if, within sixty days from the date the notice of noncompliance is issued, the owner fails to provide proof of the fact that the vehicle was properly insured at the time the notice of noncompliance was issued, the chief administrative officer of the office of motor vehicles shall destroy, or shall cause to be destroyed, the license plate removed from that owner's vehicle and shall notify the secretary that the owner of the vehicle is not in compliance with the compulsory liability law. Upon receipt of such notification, the secretary shall revoke the registration of such vehicle. Sixty days after the date of issuance of the notice of noncompliance, the fees imposed in this Section shall be owed ~~even if~~ unless the owner subsequently provides proof the motor vehicle was insured, ~~and all such fees~~ Fees that remain unpaid sixty days after issuance of the notice of compliance shall be considered final delinquent debt, unless the debtor has entered into an installment agreement with the office of motor vehicles to pay such fees. If the person has entered into an installment agreement and missed a payment, the provisions of R.S. 32:9(F)(3) shall govern when the fees provided for in this Section shall be considered final delinquent debt.

* * *

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

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

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INSTALLMENT AGREEMENTS

Present law authorizes the Dept. of Public Safety and Corrections, office of motor vehicles (OMV), to collect certain fees, penalties, and fines.

Present law neither authorizes nor prohibits the OMV from accepting partial payments on these outstanding amounts.

Proposed law requires the OMV to enter installment agreements with eligible persons for payment of outstanding fines, penalties, and fees.

Proposed law requires the OMV to notify a person of outstanding fines, penalties, or fees and to inform persons that they may be eligible to pay the outstanding amount due by installment agreement and to inquire with the OMV to determine eligibility and requirements.

Proposed law requires that OMV develop an official installment agreement form and provides no other installment agreement form is valid.

Proposed law provides that a person shall be eligible to enter into an installment agreement with the OMV upon making a timely request and upon meeting all conditions of reinstatement other than payment of the outstanding fines, penalties, or fees.

Proposed law provides that a debtor who owes OMV \$500 or more in outstanding fines, penalties, or fees, or any combination thereof, is eligible to pay via an installment agreement with the OMV on meeting the following conditions:

- (1) All conditions of reinstatement other than payment of outstanding fines, penalties, and fees owed to OMV have been satisfied.
- (2) A timely request for an installment agreement has been made.

Proposed law requires an installment agreement between OMV and a debtor to be in writing and signed by both parties.

Proposed law provides for the terms of an installment agreement between the OMV and a debtor to provide for the following:

- (1) A requirement that 20% of outstanding fines, penalties, and fees due are paid upon execution of the agreement and to allow the debtor to pay the remaining outstanding fines, penalties, and fees owed in at least four installments.
- (2) Authorize the debtor to prepay sums due under the installment agreement in full at any time without penalty.

Proposed law requires a debtor to make all payments on an installment agreement by check, bank draft, post office money order, express money order, electronic funds transfer, or credit or debit cards. Requires assessment of a convenience fee as provided in present law (R.S. 49:316.1) on credit card and debit card payments.

Proposed law requires OMV to provide a receipt to a debtor when each payment is made and

to indicate the balance outstanding under the installment agreement.

Proposed law requires payment of the entire unpaid amount under an installment agreement within 30 days of notice and demand when a debtor misses an installment payment.

Proposed law requires OMV to refer unpaid installment agreements to the Department of Revenue, office of debt recovery (ODR), for collection after notice to the debtor and subjects the debtor to an additional fee collected by the ODR.

Present law requires OMV to revoke or suspend a person's driver's license or motor vehicle registration when certain fees, penalties, and fines are not satisfied within the time period allowed by law or regulation.

Proposed law requires reinstatement of a debtor's Class "E" driver's license and motor vehicle upon execution of an installment agreement between the debtor and OMV and requires removal of all blocks on the debtor's OMV record. Authorizes OMV to include in the installment agreement an applicable fee to reinstate a driver's license and motor vehicle registration.

Proposed law requires OMV to suspend a debtor's driver's license and motor vehicle registration when an installment payment is missed and the debtor makes no timely payment and request for reinstatement of the agreement. Present law (R.S. 32:414) applies to judicial review and reinstatement of the suspension.

OFFER IN COMPROMISE

Proposed law authorizes OMV to negotiate for final payment of delinquent debt as an offer in compromise with eligible persons for fines, penalties, and fees due to the office as defined in R.S. 32:8 and requires notices to inform a debtor that he may qualify to pay sums due under an offer in compromise and to inquire with the office to determine eligibility and terms.

Proposed law authorizes OMV to reduce the total amount of debt by not to exceed 25% in exchange for full payment in lieu of payment by installment agreement.

Proposed law limits to \$4,000 the amount of penalties, fines, and fees due OMV assessed to a debtor under R.S. 32:57.1, 863, and 863.1, notwithstanding any other law to the contrary.

Proposed law authorizes OMV to adopt rules and regulations not inconsistent with the provisions of proposed law to implement its provisions in accordance with the Administrative Procedures Act.

DEBT AMNESTY PROGRAM

Proposed law requires the office of motor vehicles (OMV) to develop and implement a debt amnesty program for a period of at least two months duration in 2016 that occurs prior to December 31, 2016, and to collect debt for fines, penalties, and fees due the OMV as defined in R.S. 32:8 for violations of R.S. 32:57.1 (failure to honor a promise), R.S. 32:863 (no insurance), and R.S. 32:863.1 (no evidence of insurance). Requires the office to publicize the debt amnesty program to maximize the public's awareness of and participation in the program.

Proposed law provides that OMV debtors with debt in the amount of \$1,000 or more are eligible to participate in the debt amnesty program. Requires amnesty debt payments to be paid in full during the amnesty period and provides the following maximum schedule of amnesty debt payments.

- (1) For debt of \$1,000 or more for violation or multiple violations of R.S. 32:57.1, the amnesty debt payment due shall not exceed \$500.
- (2) For debt of \$1,000 or more for violation or for multiple violations of R.S. 32:863(A)(1), the amnesty debt payment due shall not exceed \$850 and shall not exceed \$1,075 for debt incurred for violation or for multiple violations of R.S. 32:863(A)(2). Requires the debtor to provide proof of insurance.
- (3) For debt of \$1,000 or more for violation or multiple violations of R.S. 32:863.1, the amnesty debt payment due shall not exceed \$500. Requires the debtor to provide proof of insurance.
- (4) No amnesty debt payment for debt of a person 65 years or older, including administrative fees, shall exceed \$250.

Proposed law requires the OMV to clear the debtor's record and reinstate his driver's license and motor vehicle registration upon receipt of the amnesty payment.

INSTALLMENT AGREEMENTS AND DEBTS REFERRED TO THE OFFICE OF DEBT RECOVERY

Present law provides that fees associated with the suspension of an operator's license for failure to honor a written promise to appear before a court (R.S. 32:57.1) and failure to abide by certain automobile insurance requirements (R.S. 32:863 and 863.1) are defined as "debt".

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

Proposed law modifies present law and defines "delinquent debt" as a debt that is 60 days or more past due and for which the debtor has not entered into an installment agreement with the office of motor vehicles to pay.

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

Proposed law provides that an amount due shall not be "final" during the term of an installment agreement between the office of motor vehicles and the debtor.

Present law requires the office of motor vehicles to refer all "final delinquent debt" as those terms are defined in present law to the office of debt recovery for collection.

Present law requires the OMV, prior to referral to ODR, to notify a debtor in writing that failure to pay final delinquent debt in full within 60 days will subject the debt to the maximum amount owed together with an additional fee collected by the office of debt recovery.

Proposed law permits a debtor to pay such "final delinquent debt" pursuant to an installment agreement prior to the debt being referred to ODR.

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

(Amends R.S. 32:8, 57.1(C), 863(A)(3)(a), and 863.1(C)(1)(b); adds R.S. 32:9, 10, and 11)