

2016 Regular Session

HOUSE BILL NO. 695

BY REPRESENTATIVE BROADWATER

REVENUE DEPARTMENT: Provides relative to the types of debt the office of debt recovery is charged with collecting

1 AN ACT

2 To amend and reenact R.S. 47:1676(A)(2), (B)(4), (6), and (7), (C)(2)(a), (G)(introductory
3 paragraph), (3), and (4), and (H) and R.S. 47:1676(E) as amended and reenacted by
4 Act No. 11 of the 2016 First Extraordinary Session of the Legislature, relative to the
5 collection of state debt by the office of debt recovery; to provide for the types of
6 debt the office of debt recovery is authorized to collect; to provide for definitions;
7 to provide for the fees for the collection of certain debt; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:1676(A)(2), (B)(4), (6), and (7), (C)(2)(a), (G)(introductory
11 paragraph), (3), and (4), and (H) are hereby amended and reenacted to read as follows:

12 §1676. Debt recovery

13 A.

14 * * *

15 (2) Each agency shall refer non-final ~~delinquent~~ debts requiring legal action
16 or legal proceedings, other than administrative proceedings within such agency, to
17 the attorney general's office for collection when the debt has been delinquent for
18 sixty days, or other time period as provided pursuant to the referral guidelines
19 established by the attorney general which are incorporated into agreements between

1 the attorney general and any such agency or pursuant to rules promulgated by the
2 attorney general pursuant to the Administrative Procedure Act.

3 * * *

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

6 * * *

7 (4) "Delinquent debt" means a ~~final~~ debt that is past due for sixty days or
8 more ~~past due~~.

9 * * *

10 (6) "Final debt" means any debt in which ~~the amount due is no longer~~
11 ~~negotiable and that~~ the debtor has no further ~~right of~~ administrative ~~and or~~ judicial
12 review rights to challenge the validity of the debt or the amount owed.

13 (7) "Non-final ~~delinquent~~ debt" means any debt ~~that an agency has notified~~
14 ~~a debtor is owed but the debt remains unpaid, due, or negotiable for a period of sixty~~
15 ~~days or more and such debt is not final and~~ in which the debtor has further
16 administrative or judicial ~~review~~ rights to challenge the validity of the debt or the
17 amount owed.

18 * * *

19 C.

20 * * *

21 (2)(a) Agencies that do not have collection contracts with the attorney
22 general's office for the collection of delinquent debts shall refer all delinquent debts
23 to the office as provided by rule. Such referrals shall include data and information
24 in the required format necessary to institute collection procedures. All delinquent
25 debts shall be authenticated by the agency or officer prior to being referred to the
26 office. Once the debt becomes ~~final~~ delinquent, and prior to referral to the office, the
27 agency shall notify the debtor that failure to pay the debt in full within sixty days
28 shall subject the debt to an additional collection fee as provided for in this Section.
29 ~~All agencies shall refer non-final delinquent debts to the attorney general's office for~~
30 ~~collection when the debt has been delinquent for sixty days pursuant to the referral~~

1 ~~guidelines established by the attorney general as incorporated into agreements~~
2 ~~between the attorney general and other agencies or pursuant to the rules promulgated~~
3 ~~by the attorney general pursuant to the Administrative Procedure Act. Such non-~~
4 ~~final delinquent debts shall be authenticated by the agency prior to their referral to~~
5 ~~the attorney general.~~

6 * * *

7 G. Agencies may exercise the following procedures, in combination with its
8 own statutes or as a standalone procedure, to make any debt owed to the agency a
9 final ~~delinquent~~ debt that is collectible by the office.

10 * * *

11 (3) If the debt remains unpaid sixty days after the date of the initial notice,
12 the debt shall be considered a final ~~delinquent~~ debt and shall be owed to the state and
13 collectible by the office.

14 (4) If an agency utilizes the procedures above and transfers the final
15 ~~delinquent~~ debt to the office for collection, in lieu of any other notice, the office shall
16 send the debtor a notice informing the debtor of the debt's transfer to its office for
17 collection and of the additional collection fee that shall be added to the debt.

18 H. The secretary shall promulgate rules and regulations in accordance with
19 the Administrative Procedure Act to implement the provisions of this Section,
20 including rules authorizing any reasonable procedure or requirement for agencies
21 referring delinquent debt to the ~~department~~ office for collection, requirements
22 regarding information necessary to collect the debt and the formatting of that
23 information, and the priority or ranking of debt payments against multiple agency
24 debts. Any rule promulgated by the ~~department~~ office shall be construed in favor of
25 the secretary.

26 * * *

27 Section 2. R.S. 47:1676(E) as amended and reenacted by Act No. 11 of the 2016
28 First Extraordinary Session of the Legislature is hereby amended and reenacted to read as
29 follows:

1 §1676. Debt recovery

2 * * *

3 E. The office shall charge the debtor a fee not to exceed twenty-five percent
4 of the total ~~liability of~~ amount of each debt owed. The collection fee shall only be
5 charged on debt after it ~~which~~ has become final ~~after the initial effective date of this~~
6 Section. The amount of the fee shall be established by rule promulgated by the
7 department and shall be uniformly applied to all debts. Fees collected under this
8 Subsection shall be retained by the office after the debt is collected and shall be
9 divided in accordance with an agreement between the office and the office of the
10 attorney general after payment of costs set forth in the agreement. Monies collected
11 by the office pursuant to the provisions of this Section shall be transferred to the
12 referring agency within thirty days after the end of the month in which the monies
13 were collected and shall be used, subject to an annual appropriation, by the referring
14 agency as they would have been had they been timely collected. However, any
15 monies collected for delinquent debt as a result of nonpayment of tax liabilities
16 pursuant to Title 47 of the Louisiana Revised Statutes of 1950, as amended, after
17 deposit into the state general fund, the first five million dollars shall be appropriated
18 by the legislature beginning in Fiscal Year 2013-2014, and for four consecutive
19 fiscal years thereafter, to the office of state police for a training academy class.

20 * * *

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 695 Engrossed 2016 Regular Session Broadwater

Abstract: Provides relative to the types of debt the office of debt recovery, within the Dept. of Revenue, is charged with collecting and restricts the fee charged by the office for collecting debt to no more than 25% of the total amount of each debt owed.

Present law charges the office of debt recovery (hereinafter "office") and the attorney general's office with collecting the delinquent debts of state agencies which refer delinquent debts to them for collection. Further provides for the general powers and authority of the office in collecting delinquent debt that has become final and is 60 or more days past due.

Present law requires agencies that do not have collection contracts with the attorney general's office for the collection of delinquent debts to refer all delinquent debts to the office for collection. Once the debt becomes final, and prior to referral to the office, the agency shall notify the debtor that failure to pay the debt in full within 60 days shall subject the debt to an additional collection fee as provided for in this Section.

Proposed law retains present law but changes the debt that is required to be referred to the office from final debt to delinquent debt.

Present law requires each agency to refer non-final delinquent debts requiring legal action to the attorney general's office for collection when the debt has been delinquent for 60 days pursuant to the referral guidelines established by the attorney general.

Proposed law retains present law but changes the debt that is required to be referred to the attorney general from non-final delinquent debt to non-final debt.

Present law defines a "delinquent debt" as a final debt that is 60 days or more past due. Additionally, defines "non-final delinquent debt" as any debt that an agency has notified a debtor that is owed but the debt remains unpaid, due, or negotiable for a period of 60 days or more and the debt is not final and the debtor has further administrative or judicial review rights to challenge the validity of the debt or the amount owed.

Proposed law changes the definition of "delinquent debt" by removing references to the debt being final and specifies that the debt is 60 days past due. Further changes the definition of "non-final delinquent debt" by removing the references to the debt being delinquent and specifies that "non-final debt" is debt that the debtor has administrative or judicial rights to challenge the validity of the amount owed.

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

Proposed law changes the definition of "final" to "final debt". Further defines "final debt" as any debt in which the debtor has no administrative or judicial review rights to challenge the validity of the amount owed.

Present law authorizes the office of debt recovery to charge the debtor a fee not to exceed 25% of the total liability of debt that has become final.

Proposed law changes present law to restrict the fee to no more than 25% of the total amount of each debt. Further restricts the collection of this fee to debt after it has become final.

(Amends R.S. 47:1676(A)(2), (B)(4), (6), and (7), (C)(2)(a), (G)(intro. para.), (3), and (4), and (H) and R.S. 47:1676(E) as amended by Act No. 11 of the 2016 1st E.S.)

Summary of Amendments Adopted by House

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

1. Change the debt that is required to be referred to the attorney general from non-final delinquent debt to non-final debt.
2. Change the definition of "final" to "final debt". Further defines "final debt" as debt that the debtor has no administrative or judicial review rights to challenge the validity of the amount owed.
3. Specify that "delinquent debt" is debt that is 60 days past due.

4. Specify that "non-final debt" is debt that the debtor has administrative or judicial rights to challenge the validity of the amount owed.
5. Make technical corrections to change references from "final delinquent debt" to "final debt".
6. Change the fee charged to the debtor for collection of the debt from not to exceed 25% of the total liability to not to exceed 25% of the amount of each debt owed. Further restricts the fee to the collection of debt that has become final.