

RÉSUMÉ DIGEST

ACT 397 (HB 245)

2016 Regular Session

Marcelle

Existing law requires the Dept. of Public Safety and Corrections, office of motor vehicles, to collect certain fees, penalties, and fines.

Existing law does not authorize or prohibit the office of motor vehicles from accepting partial payments on these outstanding amounts.

New law requires the office of motor vehicles enter into installment agreements with eligible persons to pay outstanding fines, penalties, and fees owed to the office of motor vehicles.

New law prohibits an installment agreement from being used to pay sales or use taxes or related penalties and interest, vehicle registration license taxes, or titling fees when submitting a transaction to title or register a motor vehicle. Specifies that if the office of motor vehicles has previously sent a notice to the individual that the payment made on a motor vehicle title or registration transaction was dishonored by the bank processing the transaction, new law authorizes the office of motor vehicles to accept an installment agreement to collect that dishonored payment in addition to any fees, penalties, or interest that may be added to the total due to the dishonored payment.

New law requires all notices provided by the office of motor vehicles notifying a person of outstanding fines, penalties, or fees also inform such person that he may be eligible to pay the outstanding amount due by installment agreement and to include instructions on how to inquire with the office of motor vehicles to determine eligibility and requirements.

New law requires all installment agreements be in writing and signed by both parties.

New law requires the office of motor vehicles to develop an official form to be utilized for installment agreements and provides that an installment agreement with the office of motor vehicles which does not utilize this form would not be valid.

New law provides that a debtor who owes the office of motor vehicles \$250 or more in outstanding fines, penalties, or fees, or any combination thereof, is eligible to pay such amounts by means of an installment agreement with the office of motor vehicles should the following conditions be met:

- (1) All conditions of reinstatement other than payment of outstanding fines, penalties, and fees owed to the office of motor vehicles have been satisfied.
- (2) A request for an installment agreement is made within the time provided for in the notice from the office of motor vehicles informing the debtor of the outstanding fines, penalties, and fees owed to the office of motor vehicles.

New law provides that upon termination of an installment agreement executed pursuant to new law, all outstanding amounts due under the installment agreement would be final debt as defined by existing law (R.S. 32:8 or R.S. 47:1676).

New law provides that any installment agreement entered into pursuant to new law would constitute a waiver by the debtor of any right to administrative or judicial review regarding sums due under an installment agreement.

New law provides that any notices provided to a debtor who enters into an installment agreement pursuant to new law would constitute satisfaction of the notice requirements of existing law (R.S. 32:8 and R.S. 47:1676).

New law provides that the Dept. of Public Safety and Corrections, office of motor vehicles, shall not refer debt which becomes delinquent debt, final debt, or final delinquent debt after the effective date of new law to the office of debt recovery or the office of the attorney general during the term of any installment agreement.

INSTALLMENT AGREEMENT TERMS

New law requires any installment agreement to require a debtor to provide fixed and equal monthly payments, with the first payment due upon the execution of the agreement, as follows:

If the debtor owes \$250, the debtor must pay six equal monthly installments.

If the debtor owes from \$251 to \$750, the debtor must pay 12 equal monthly installments.

If the debtor owes from \$751 to \$1500, the debtor must pay 24 equal monthly installments.

If the debtor owes from \$1,501 to \$2,500, the debtor must pay 36 equal monthly installments.

If the debtor owes from \$2,501 to \$4,999, the debtor must pay 48 equal monthly installments.

If the debtor owes \$5,000 or more, the debtor must pay up to 60 monthly installment payments.

New law permits the commissioner of the office of motor vehicles to grant longer payment terms for amounts of \$5,000 or more owed based on proof of income indicating a debtor's financial limitations to pay within 60 months.

New law allows prepayment of sums due on an installment agreement to be made without the imposition of a penalty.

New law requires all installment agreement payments to be made through an electronic automated transaction initiated by the office of motor vehicles or a third party on behalf of the office of motor vehicles.

New law permits such installment agreement payments to be made by bank draft, electronic funds transfer, or credit or debit card, including but not limited to reloadable prepaid credit or debit cards.

New law requires all debtors to provide necessary information for installment payments to be paid by electronic automated transactions.

New law requires that each time an installment agreement payment is made that the debtor will be issued a statement or receipt indicating the amount paid and the amount outstanding under the installment agreement.

New law allows the commissioner of the office of motor vehicles to suspend an installment agreement executed pursuant to new law for up to 60 days following a request by the debtor based upon good cause. Specifies that good cause would be determined by the commissioner.

New law prohibits installment payments from being made during the period of suspension and requires that payments would resume upon the day following the last day of the suspension period.

New law requires that any suspension of an installment agreement pursuant to new law would extend the term of the installment agreement by the length of any suspension. Requires a debtor's driving privileges remain active during the suspension period unless otherwise blocked, revoked, or suspended.

REINSTATEMENT OF DRIVING PRIVILEGES UPON EXECUTION OF INSTALLMENT AGREEMENT

Existing law requires the office of motor vehicles to revoke or suspend a person's driver's license or motor vehicle registration privileges when certain fees, penalties, and fines for failure to abide by certain highway regulatory laws or regulations, driver's license laws or regulations, motor vehicle compulsory security laws or regulations are not satisfied within the time period allowed by law or regulation.

New law requires a debtor's Class "E" driving privileges and motor vehicle or truck registration privileges be reinstated when an installment agreement is executed by the debtor and the office of motor vehicles. Requires all blocks on the debtor's license record be removed at that time. Authorizes the office of motor vehicles to include the applicable fee for reinstatement of driving privileges in the total to be owed pursuant to an installment agreement entered into pursuant to new law.

New law provides that if a debtor fails to timely make an installment payment and no request for reinstatement of an installment agreement is made following the commissioner of the office of motor vehicles sending the Notice of Installment Agreement Termination and Demand or the commissioner rejects a request to reinstate an installment agreement, the debtor's driving privileges and motor vehicle or truck registration privileges will be suspended. Existing law (R.S. 32:414) shall apply with regards to judicial review of the suspension and reinstatement of the suspension.

FAILURE TO MAKE PAYMENTS DUE UNDER AN INSTALLMENT AGREEMENT

New law requires that in the event that any installment payment is not paid on or before the date fixed for its payment, the entire amount unpaid pursuant to the installment agreement shall be paid by the debtor within 60 days from the date of notice and demand from the commissioner of the office of motor vehicles. Such notice will be known as "Notice of Installment Agreement Termination and Demand."

New law requires the Notice of Installment Agreement Termination and Demand to advise the debtor that his driver's license shall be suspended upon the expiration of the 60 days if the payments due pursuant to the installment agreement are not made current within that 60-day period or the agreement is not reinstated by the commissioner of the office of motor vehicles within that 60-day period.

New law requires that in the event that an installment agreement includes payment of delinquent or final debt as defined by existing law (R.S. 32:8), the Notice of Installment Agreement Termination and Demand must include all information required by existing law (R.S. 32:8).

New law in the event that an installment agreement includes payment of delinquent or final debt as defined by existing law (R.S. 47:1676), the Notice of Installment Agreement Termination and Demand must include all information required by existing law (R.S. 47:1676).

The Notice of Installment Agreement Termination and Demand required by new law would satisfy the notice requirements of existing law (R.S. 32:8 and R.S. 47:1676).

New law permits the commissioner of the office of motor vehicles to reinstate an installment agreement if the request for reinstatement is made within 60 days from the date of the Notice of Installment Agreement Termination and Demand and the debtor makes the payment.

INSTALLMENT AGREEMENTS AND REFERRAL TO THE OFFICE OF DEBT RECOVERY

Existing 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. 32:368 and 368.1) are defined as "debt".

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

New law provides that the office of motor vehicles shall refer a "final delinquent debt" as those terms are defined in existing law for which a debtor has not entered into an installment agreement for payment of to the office of debt recovery.

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

New law requires that notice also inform the debtor that he may qualify to pay sums due by installment agreement, if eligible, and include instructions on how to inquire with the office of motor vehicles to determine eligibility and terms.

New law provides that if no request for reinstatement of an installment agreement is made within 60 days of the Notice of Installment Agreement Termination and Demand required by new law, or the commissioner of the office of motor vehicles rejects a request to reinstate an installment agreement, the installment agreement will be terminated and any remaining sums due under the installment agreement will be delinquent and final debt as defined by existing law for which the following shall apply:

- (1) For sums due which are not debt as defined by R.S. 32:8, the office of motor vehicles may refer any unpaid balance due under the installment agreement for collection by the appropriate office.
- (2) For sums due which are debt as defined by R.S. 32:8, the office of motor vehicles must refer any unpaid balance due under the installment agreement to the Dept. of Revenue, office of debt recovery, for collection as provided in existing law.

OFFICE OF DEBT RECOVERY AUTHORIZED TO ADMINISTER INSTALLMENT AGREEMENTS AND COLLECT INSTALLMENT PAYMENTS

New law authorizes the Dept. of Public Safety and Corrections, public safety services, to authorize a third party, including but not limited to the Dept. of Revenue, office of debt recovery, to provide services for the administration and collection of payments due pursuant to installment agreements entered into by a debtor and the office of motor vehicles pursuant to new law.

New law permits any authorized third party to collect a transaction fee not to exceed \$3 for each payment made pursuant to an installment agreement.

New law provides that an authorized third party may charge fees authorized by existing law relating to electronic transactions (R.S. 40:1322 and R.S. 49:316.1) to be completed pursuant to new law.

New law provides that existing law regarding installment agreements for tax related debt and payment of other types of debt administered by the Dept. of Revenue, office of debt recovery, would not apply to installment agreements executed pursuant to new law.

Effective June 8, 2016.

(Amends R.S. 32:8(A)(3) and (B); Adds R.S. 32:429.4 and R.S. 47:1676(L))