

RÉSUMÉ DIGEST

ACT 629 (HB 683)

2024 Regular Session

Owen

Prior law required the office of motor vehicles (OMV) to refer a final delinquent debt for which a debtor has not entered into an installment agreement for payment to the office of debt recovery as provided in existing law. Specified final delinquent debt referrals must include data and information in the required format necessary to institute collection procedures. Specified that once the delinquent debt becomes final, and prior to referral to the office of debt recovery, the OMV must notify the debtor in writing that failure to pay the debt in full within 60 days will subject the debt to the maximum amount owed together with the additional fee collected by the office of debt recovery provided for in existing law.

New law modifies prior law by removing the requirement that OMV refer final delinquent debt to the office of debt recovery and requires that prior to the referral to the office of debt recovery, that the OMV notify the debtor in writing regarding failure to pay the debt.

New law authorizes the OMV, through the commissioner, to compromise and settle all debt whether such debt is delinquent debt, final debt, or a debt that has been referred to the office of debt recovery as a final delinquent debt to avoid litigation and further collection expenses of the state upon satisfactory showing of substantial compliance with the law and determination that no fee or lesser fee is due.

Prior law defined "delinquent debt" as a debt that is 60 days or more past due.

New law increases the past due amount from debt that is 60 days or more past due to 180 days or more past due.

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

New law removes a specification that the amount due is no longer negotiable.

New law retains existing law but gives the OMV the option to refer a final delinquent debt for which a debtor has not entered into an installment agreement for debt recovery to the office of debt recovery, within the Dept. of Revenue.

New law requires a debtor to provide a valid electronic mail address to the OMV to receive all notices and updates. Specifies it is the debtor's obligation to maintain a valid electronic mail address during the entire term of any installment agreement. Requires the debtor to promptly update the installment agreement system with any new or changed electronic mail address.

Prior law established an installment agreement payment schedule that required a debtor to provide fixed and equal monthly payments in the following amounts, with the first payment due upon the execution of the agreement:

- (1) If the debtor owed \$250, the debtor was required to pay six equal monthly installments.
- (2) If the debtor owed from \$251 to \$750, the debtor was required to pay 12 equal monthly installments.
- (3) If the debtor owed from \$751 to \$1,000, the debtor was required to pay 24 equal monthly installments.
- (4) If the debtor owed from \$1,501 to \$2,500, the debtor was required to pay 36 equal monthly installments.
- (5) If the debtor owed from \$2,501 to \$4,999, the debtor was required to pay 48 equal monthly installments.

- (6) If the debtor owed \$5,000 or more, the debtor was required to pay up to 60 monthly installment payments. However, the commissioner of the OMV may grant longer payment terms for amounts of five thousand dollars or more owed based on proof of income indicating a debtor's financial limitations to pay within 60 months.

New law removes the execution process in prior law and gives the commissioner of the OMV discretion to consider factors such as the debtor's income, financial obligations, as well as any other factors that affect the debtor's ability to pay the outstanding debt when the commissioner is determining the number of payments and the amount of each payment in the debtor's installment agreement.

Existing law provides for the termination of installment agreement upon failure to make payment. Specifies that if any installment payment is not paid on or before the date fixed for its payment, the entire amount unpaid pursuant to the installment agreement is to be paid by the debtor within a 60 day period from the date of notice and demand from the commissioner of the OMV. Further specifies that the notice is to advise the debtor that his driver's license will be suspended upon the expiration of the 60 day period 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 OMV within that sixty-day period. Specifies that this notice is known as "Notice of Installment Agreement Termination and Demand".

New law adds that existing law is only triggered if the debtor fails to make up the missed payment as provided in new law.

Existing law requires Notice of Installment Agreement Termination and Demand satisfy all notice requirements of existing law (R.S. 32:8 and R.S. 47:1676). Specifies in the event an installment agreement includes payment of delinquent or final debt as defined by existing law (R.S. 32:8), such notice must include all information required by existing law (R.S. 32:8). Further specifies the event that an installment agreement includes payment of delinquent or final debt as defined by existing law (R.S. 47:1676), such notice must include all information required by existing law (R.S. 47:1676). Additionally the notice required must satisfy the notice requirements of existing law (R.S. 32:8 and R.S. 47:1676).

New law retains existing law and clarifies that the Notice of Installment Agreement Termination and Demand must satisfy all notice requirements contained in R.S. 32:8 and R.S. 47:1676.

Existing law specifies that upon the request of the debtor within the 60 day period from the date of the notice and demand required in existing law and approval of the commissioner of the OMV, the office may reinstate the installment agreement after payment of the missed installment.

New law modifies existing law and specifies that the OMV may reinstate the installment agreement after payment of all missed installments and associated late fees.

Existing law specifies if no request for reinstatement of an installment agreement is made within 60 days of the notice and demand required in existing law, or if the commissioner of the OMV 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 in existing law and will apply to the following:

- (1) Sums due which are not debt as defined by present law, the OMV may refer any unpaid balance due under the installment agreement for collection by the appropriate office pursuant to existing law.
- (2) For sums due which are debt as defined by existing law, the OMV 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.

New law retains existing law but makes it optional for the OMV to 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.

Existing law requires driving privileges and vehicle registration be reinstated when an installment agreement is executed by the debtor and the OMV. Specifies that all blocks on the debtor's license record be removed at that time. Further specifies the OMV may include the applicable fee for reinstatement of driving privileges in the total to be owed pursuant to an installment agreement entered into pursuant to existing law.

Existing law establishes administration of installment agreements. Requires 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 administer installment agreements executed pursuant to present law. Additionally, allows such authorized third party to collect payments due pursuant to installment agreements executed pursuant to existing law.

Existing law specifies that any such authorized third party be an authorized agent of the Dept. of Public Safety and Corrections, public safety services, and may collect the following fees for each transaction completed pursuant to existing law:

- (1) A fee not to exceed three dollars for each payment made pursuant to an installment agreement.
- (2) Fees authorized by existing law.
- (3) Fees authorized pursuant to existing law.

Specifies that the provisions of existing law do not apply to services provided by the Dept. of Revenue, office of debt recovery, pursuant to existing law.

Further specifies that the OMV and the office of debt recovery cannot be considered a collection agency as defined in existing law.

Existing law further specifies that the OMV and the Dept. of Revenue, office of debt recovery, may adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of existing law.

New law creates the Reinstatement Relief Program. Specifies that the commissioner of the OMV is authorized to implement a Reinstatement Relief Program for persons who owe reinstatement fees imposed pursuant to existing law for having a lapse in insurance coverage.

New law requires the commissioner to determine the amount of reinstatement fees a person owes. Requires the person promptly pay the amount determined to be owed no later than 10 calendar days from the date the commissioner sets the amount that is owed. Additionally, specifies that if the person needs to make payment arrangements, the person is to execute an installment agreement with the OMV. Further provides that such an installment agreement will only be for the amount determined to be owed by the commissioner together with all fees associated with the installment agreement as provided existing law.

New law specifies if a person executes an installment contract; that person must maintain eligibility to remain in the Reinstatement Relief Program only if they make all payments required in the installment agreement. Further specifies, that if a person fails to make a timely payment; and fails to pay the missed payment with the associated late fee before the next scheduled payment, the person must be removed from the Reinstatement Relief Program and will not be eligible to reenter the Reinstatement Relief Program.

New law allows the commissioner to request documentation and information from the person that is necessary to determine the amount of any payment and the number of any payment including but not limited to income tax returns and prior bankruptcy filings.

New law establishes that if the person successfully completes the Reinstatement Relief Program, the OMV must issue documentation to the person indicating the amount of debt that was paid and the amount of debt that was forgiven.

New law requires the provisions of new law retroactively apply to all persons whose debt on the effective date of the Act, even if the debt has already been referred to the office of debt recovery.

New law specifies any debt referred to the office of debt recovery on or before the effective date of this Act, will be considered delinquent debt if the debt was 60 days or more past due, as provided in Act No. 414 of the 2015 R.S.

Effective upon signature of the governor (June 11, 2024).

(Amends R.S. 32:8(A)(2) and (3) and (B) and 429.4(B) and (E)-(H); Adds R.S. 32:8(D), 414(X), 429.4(A)(5) and (I), and 863.1.2)