

FOR OFFICE USE ONLY

HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Broadwater to Engrossed House Bill No. 629 by Representative Broadwater

1 AMENDMENT NO. 1

2 On page 1, line 2, after "R.S. 36:451(C)" delete the remainder of the line and insert the
3 following:

4 "and R.S. 47:1603(A) and to enact R.S. 36:458(H) and R.S. 47:1676, 1676.1, and
5 1677,"

6 AMENDMENT NO. 2

7 On page 1, line 11, after "regulations;" and before "to" insert the following:

8 "to provide for the waiver of penalty for delinquent filing or delinquent payment
9 under certain circumstances; to authorize establishment of certain programs; to
10 establish the Debt Recovery Fund as a special treasury fund; to provide for the
11 deposit, use, and investment of the monies in the fund; to authorize the establishment
12 and use of a financial institution data match system; to authorize the acquisition and
13 use of certain information from a financial institution; to authorize the payment of
14 certain fees for acquisition of data match request files; to provide for the
15 confidentiality of certain information;"

16 AMENDMENT NO. 3

17 On page 2, line 25, after "Section 2." delete the remainder of the line and insert the
18 following:

19 "R.S. 47:1603(A) is hereby amended and reenacted and R.S. 47:1676, 1676.1, and
20 1677 are hereby enacted to read as follows:

21 §1603. Waiver of penalty for delinquent filing or delinquent payment

22 A.(1) If the failure to make any return at the time such return becomes due
23 or the filing of a return without remittance of the full amount due, is attributable, not
24 to the negligence of the taxpayer, but to other cause set forth in written form and
25 considered reasonable by the secretary of the Department of Revenue, the secretary
26 may remit or waive payment of the whole or any part of the specific penalty
27 provided for such failure; ~~but in any case when the penalty exceeds five thousand~~
28 ~~dollars, it can be waived by the secretary only after approval by the board of tax~~
29 ~~appeals.~~

30 (2) In order to promote the effective administration of the tax laws of this
31 state, the secretary may promulgate rules and regulations in accordance with the
32 Administrative Procedure Act , including but not limited to the establishment of a
33 voluntary disclosure program and the remittance or waiver of any portion of
34 penalties provided for in this Subtitle.

35 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 AMENDMENT NO. 4

2 On page 2, line 29, after "recovery" delete the comma "," and delete the remainder of the
3 line

4 AMENDMENT NO. 5

5 On page 3, line 6, after "before" and before the comma "," delete "January 1, 2013" and
6 insert "July 1, 2013"

7 AMENDMENT NO. 6

8 On page 3, at the end of line 28, insert the following:

9 "For purposes of this Section, "debt" shall not include any legally collectible
10 liquidated sum due and owing to an agency or an individual pursuant to the
11 following federal programs: Title IV-A, Title IV-B, Title IV-D, Title IV-E, Title XX
12 of the federal Social Security Act, 7 United States Code (U.S.C.) 2011 et seq., 42
13 U.S.C. 9858 et seq., 42 U.S.C. 5101 et seq., 42 U.S.C. 5116 et seq., 42 U.S.C. 10401
14 et seq.; or any state tax debt collected under Title 47 of the Louisiana Revised
15 Statutes of 1950, as amended; or, any sums due on account of overpaid
16 unemployment compensation benefits or unpaid contributions or reimbursements
17 pursuant to Louisiana Security Law under R.S. 23:1471 et seq."

18 AMENDMENT NO. 7

19 On page 4, line 1, after "means a" and before "debt" insert "final"

20 AMENDMENT NO. 8

21 On page 5, at the end of line 6, insert the following:

22 "However, any contract entered into by the secretary for the collection of delinquent
23 debt on behalf of the state shall be subject to review by the Cash Management
24 Review Board. Additionally, the legislative auditor shall have authority to conduct
25 audits of such contracts in accordance with the law.

26 (5) If, in the course of collecting delinquent debt, the secretary determines
27 that the office requires the additional assistance of legal counsel, the secretary shall
28 first seek assistance from the office of the attorney general. If the office of the
29 attorney general is unable to or declines to offer legal counsel, the secretary is
30 authorized to contract with a third-party for such services. However, any contract
31 entered into by the secretary for legal services shall be subject to review by the Cash
32 Management Review Board. Additionally, the legislative auditor shall have
33 authority to conduct audits of such contracts in accordance with the law."

34 AMENDMENT NO. 9

35 On page 5, delete lines 19 through 24 in their entirety and insert the following:

36 "(2) The department and the office may establish and use an electronic
37 financial institution data match system as authorized in R.S. 47:1677 for comparison
38 of certain account information held by financial institutions with the department and
39 office's databases of state tax and state nontax debtors against whom an assessment
40 or judgment for debt owed to the state has become final."

41 AMENDMENT NO. 10

42 On page 6, at the end of line 2, insert the following:

1 "The office's method and procedure for the request of or suspension, revocation, or
 2 denial of a professional license, or other license or permit pursuant to the provisions
 3 of this Section shall comport with the method utilized according to the provisions of
 4 R.S. 47:296.2 and 296.3."

5 AMENDMENT NO. 11

6 On page 6, line 9, after "collected" and before the period "." delete the remainder of the line
 7 and delete lines 10 through 13 in their entirety and insert the following:

8 " and shall be divided equally between the office and the office of the attorney
 9 general after all of the expenses incurred in the initial establishment of the office and
 10 initial establishment of debt collection in the office of the attorney general are paid.
 11 Monies collected by the office pursuant to the provisions of this Section shall be
 12 deposited into the Debt Recovery Fund established in accordance with the provisions
 13 of R.S. 47:1676.1, within thirty days after the end of the month in which the monies
 14 were collected"

15 AMENDMENT NO. 12

16 On page 6, at the end of line 27, insert the following:

17 "Compilation of tax data in the electronic registry by the department shall not be a
 18 violation of R.S. 47:1508, and any information or data gathered by the department
 19 and the office in accordance with the law may be used for purposes of collecting tax
 20 and nontax debt."

21 AMENDMENT NO. 13

22 On page 7, at the end of line 2, after "collection" insert a comma ","

23 AMENDMENT NO. 14

24 On page 7, line 3, at the beginning of line 3, delete "and any"

25 AMENDMENT NO. 15

26 On page 7, line 4, after "information" and before the period "." insert "and the priority or
 27 ranking of debt payments against multiple agency debts"

28 AMENDMENT NO. 16

29 On page 7, between lines 15 and 16, insert the following:

30 "J. The operations of the office shall be subject to annual review by the Cash
 31 Management Review Board.

32 §1676.1. Debt Recovery Fund

33 A. There is hereby established as a special fund within the state treasury the
 34 "Debt Recovery Fund", hereinafter referred to as the "fund". After satisfying the
 35 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative
 36 to the Bond Security and Redemption Fund, the state treasurer shall annually deposit
 37 into the fund an amount equal to the monies collected pursuant to the provisions of
 38 R.S. 47:1676 for the collection of delinquent debt.

39 B. All unexpended and unencumbered monies in the fund at the end of the
 40 fiscal year shall remain in the fund. The monies in the fund shall be invested by the

1 state treasurer in the same manner as monies in the state general fund, and all
 2 earnings on the investment of the monies in the fund shall be deposited into the fund.

3 C. Monies in the fund shall be appropriated by the legislature to be utilized
 4 and expended solely as provided for in this Subsection. A portion of the monies in
 5 the fund shall be appropriated to any state agency which referred its delinquent debt
 6 to the office of debt recovery for collection to be used solely for purposes of federal
 7 reimbursements. However, in no case shall the amount of monies appropriated to
 8 any state agency exceed the actual amount of delinquent debt monies collected by
 9 the office of debt recovery on behalf of the state agency.

10 §1677. Financial Institution Data Match

11 A. A financial institution or its processor shall provide to the department or
 12 the office, the name, record address, social security number or other taxpayer
 13 identification number, any other identifying information, and an average daily
 14 account balance for the most recent thirty-day period, for each calendar quarter for
 15 each account owner who maintains an account at such institution and who the office
 16 purports is a tax or nontax debtor.

17 B. For purposes of this Section, the following words or phrases shall have
 18 the following meanings unless the context clearly indicates otherwise:

19 (1) "Account" shall mean any money held in the name of an account owner,
 20 individually or jointly with another, including but not limited to a deposit account,
 21 demand account, savings account, negotiable order of withdrawal account (NOW
 22 account), share account, member account, time certificate of deposit, or money
 23 market account. "Account" shall not include money held by a financial institution
 24 where the tax or nontax debtor is listed in a capacity other than owner, such as
 25 custodian, tutor, or agent.

26 (2) "Financial institution" shall mean a state or federally chartered bank,
 27 savings bank, savings and loan association, or credit union operating in this state with
 28 a main office or one or more branch offices.

29 (3) "Nontax debtor" shall mean an individual against whom an assessment
 30 or judgment for a debt owed to the state has become final and is currently
 31 enforceable in accordance with the law.

32 (4) "Tax debtor" shall mean an individual against whom an assessment or
 33 judgment for state taxes payable has become final and is currently enforceable in
 34 accordance with law.

35 C.(1) If a financial institution or its processor has a current data match
 36 system developed or used to comply with the child support data match system
 37 provided for in R.S. 46:236.1.4, the financial institution or its processor may use that
 38 system to comply with the provisions of this Section. The office shall not require a
 39 financial institution or its processor to change their data match system or file format
 40 established under R.S. 46: 236.1.4 in order to comply with this Section.

41 (2) For Louisiana domiciled financial institutions having no branch offices
 42 outside the state, the office or its data match vendor shall ensure that compliance
 43 with both the provisions of this Section and R.S. 46:236.1.4 may be accomplished
 44 with a single data match file. Louisiana domiciled institutions having no branch
 45 offices outside the state, or their processor, shall not be required to process multiple
 46 data match files to comply with this Section.

47 D. A financial institution may, but is not required to, disclose to its
 48 depositors or account holders that the department or the office has the authority to
 49 request and receive certain identifying information provided for in this Section for
 50 state tax and nontax debt collection purposes.

1 E.(1) No financial institution, including its directors, officers, employees,
2 attorneys, accountants, or other agents, shall incur liability to any person, including
3 any depositor or other customer, as a result of providing account information to the
4 department or office in compliance with a request that conforms to the provisions of
5 this Section.

6 (2) A financial institution, including any of its directors, officers, employees,
7 attorneys, accountants, or other agents, shall not be civilly or criminally liable to any
8 person, including any customer, for any disclosure of information made in
9 accordance with this Section, including any disclosure of account balances.

10 F.(1) Notwithstanding any other law or rule to the contrary, the department
11 or office shall pay a participation fee to each financial institution that actually
12 receives a data match request file. The participation fee to a financial institution
13 shall be for actual costs incurred for conducting the data match and otherwise
14 complying with the provisions of this Section. Actual costs incurred for complying
15 with this Section shall be the total cost incurred by the financial institution to process
16 all data match request files under R.S. 46:236.1.4 and this Section minus the costs
17 incurred to process data match request files under R.S. 46:236.1.4. In order to
18 receive the participation fee authorized by this Section, the financial institution must
19 be FDIC insured.

20 (2) Before a financial institution receives a participation fee, the financial
21 institution must show it has incurred costs under R.S. 46:236.1.4 and this Section.
22 The department or office may require a financial institution to submit paperwork
23 such as invoices and other documentation to substantiate the costs that have been
24 incurred. After actual costs are established by a financial institution under Paragraph
25 (1) of this Subsection through submitted paperwork, the office shall automatically
26 remit payment to the financial institution on a quarterly basis without the financial
27 institution having to resubmit additional paperwork each quarter thereafter.
28 However, the office may request additional paperwork from a financial institution
29 on a periodic basis, not to exceed once every two years, to verify their actual costs
30 in complying with this Section.

31 (3) Notwithstanding any other law or rule to the contrary, if a financial
32 institution assesses a fee to its customer for processing a state tax or state non-tax
33 levy received from the office or the department, the fee shall be collected by the
34 financial institution from the proceeds of the customer's account before any account
35 proceeds are remitted to the office or the department to satisfy the state tax or state
36 nontax levy.

37 (4) Any fees paid under this Section shall not be comprised of or constitute
38 any amounts due to a financial institution for its compliance with R.S. 46:236.1.4.
39 The department or office shall be responsible for the reconciliation and tracking of
40 data and information regarding the number of sent data match request files, received
41 completed data match accounts, and amounts paid in accordance with this Section.
42 The department shall also be responsible for tracking and reporting all statistical
43 information regarding financial data match activities to the commissioner of
44 administration or his designee every six months and to report the information to the
45 Joint Legislative Committee on the Budget every session prior to the last day of each
46 legislative session.

47 G. The department, office, and their designated vendor for the data match
48 program, shall keep all information received from financial institutions pursuant to
49 this Section confidential, and any employee, agent, or representative of the
50 department, office, and their designated vendor is prohibited from disclosing that
51 information to any other third party.

1 H. The department or office shall generally conduct the data match program
2 provided for in this Section on a quarterly basis. However, if the department or
3 office decides to conduct data match with a particular financial institution less
4 frequently than every quarter, the department or office shall provide written notice
5 to the chief operating officer of the financial institution at least ninety days before
6 the next scheduled quarterly data match date. If the department or office provides
7 the required notice to change the frequency of data match, the department or office
8 shall not further change the frequency of data match with that financial institution
9 for at least one year from the date written notice was provided to the financial
10 institution originally changing the frequency of the data match schedule. After the
11 one year period has accrued, any subsequent changes to the frequency of the data
12 match schedule with a financial institution shall also only be done by the department
13 or office after providing written notice to the chief operating officer of the financial
14 institution at least ninety days in advance of the next quarterly data match date."