

2015 Regular Session

HOUSE BILL NO. 774

BY REPRESENTATIVE THIERRY

FEES/LICENSES/PERMITS: Provides relative to fees charged by the Department of Revenue

1 AN ACT  
2 To amend and reenact R.S. 47:15(16), 105(A) and (B), 299.5, 1507, and 1578(B)(4)(c) and  
3 to enact R.S. 47:1576.2 and 1578(B)(4)(d) and (e), relative to the Department of  
4 Revenue; to provide for installment agreements for the payment of taxes due and to  
5 establish associated fees; to establish fees for offset claims; to establish fees for the  
6 authentication of tax records; to establish fees and payments required to apply for  
7 compromises of judgments; to establish procedures relative to the payment of these  
8 amounts; to provide for effectiveness; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:15(16), 105(A) and (B), 299.5, 1507, and 1578(B)(4)(c) are  
11 hereby amended and reenacted and R.S. 47:1576.2 and 1578(B)(4)(d) and (e) are hereby  
12 enacted to read as follows:

13 §15. Taxpayer's Bill of Rights

14 There is hereby established a Taxpayer's Bill of Rights to guarantee that the  
15 rights, privacy, and property of Louisiana taxpayers are safeguarded and protected  
16 during tax assessment, collection, and enforcement processes administered under the  
17 tax laws of this state. This Taxpayer's Bill of Rights consists of a statement, in  
18 nontechnical terms, of the rights and obligations of the Department of Revenue and  
19 taxpayers. The rights afforded taxpayers to assure that their privacy and property are

1           safeguarded and protected during tax assessment and collection are available only  
2           insofar as they are implemented in accordance with the Constitution of Louisiana and  
3           Louisiana Revised Statutes of 1950 or the administrative rules of the Department of  
4           Revenue. The rights assured Louisiana taxpayers are:

5   \*           \*           \*

6                       (16) The right to ask the Department of Revenue to consider an installment  
7           payment agreement plan in accordance with the provisions of R.S. 47:1576.2 and  
8           rules and regulations promulgated in accordance with the Administrative Procedure  
9           Act, for taxes, interest, and penalties due. If a taxpayer qualifies for an installment  
10          payment agreement, no further collection action will be taken as long as the taxpayer  
11          complies with the installment payment agreement.

12   \*           \*           \*

13          §105. Payment of tax

14                    A. Time of payment. The total amount of tax due on a calendar or fiscal  
15          year income tax return shall be paid on the date the return is required by law to be  
16          filed determined without regard to any extension of time for filing the return. The  
17          full amount of tax disclosed by the return as filed shall constitute an assessment at  
18          that time, and shall be recorded as an assessment in the records of the secretary.

19                    B. Installment Payments. If the taxpayer qualifies for an installment  
20          agreement plan, the taxpayer may elect to pay the tax in installments. Each  
21          installment payment shall be paid in accordance with the installment agreement plan  
22          established in accordance with the provisions of R.S. 47:1576.2 and rules and  
23          regulations promulgated by the department in accordance with the Administrative  
24          Procedure Act. ~~Installment payments for taxable years which end prior to January~~  
25          ~~1, 1961. For taxable years ending prior to January 1, 1961, the taxpayer may elect~~  
26          ~~to pay the tax in three equal installments, in which case the first installment shall be~~  
27          ~~paid on the date prescribed for the payment of the tax by the taxpayer or on the date~~  
28          ~~the return is filed, whichever is earlier; the second installment shall be paid on the~~  
29          ~~fifteenth day of the third month following the due date for filing the return; and the~~

1 ~~third installment shall be paid on the fifteenth day of the sixth month following the~~  
 2 ~~due date for filing the return.~~ If any installment payment is not paid on or before the  
 3 date fixed for its payment, the whole amount of tax unpaid shall be paid upon notice  
 4 and demand from the ~~collector~~ secretary. However, upon request of the taxpayer and  
 5 approval of the secretary, the secretary may reinstate the installment payment  
 6 agreement plan after payment of the fee required in R.S. 47:1576.2.

7 \* \* \*

8 §299.5. Procedure for making offset claims

9 Any agency making an offset claim to the secretary shall make ~~said~~ the claim  
 10 in writing to the office of the secretary and shall include with regard to each claim  
 11 information required by promulgated rule and regulation of the secretary as provided  
 12 for in this Part. Such writing shall also include a certification by the agency that the  
 13 debts for which claims of offset are made are legally collectible, liquidated sums due  
 14 and owing the agency or due and owing a person and collectible by the agency. The  
 15 agency shall pay to the secretary a fee of ~~four~~ twenty-five dollars for each offset  
 16 claim.

17 \* \* \*

18 §1507. Authentication of ~~collector's~~ secretary's records; fees for searching for  
 19 documents

20 A. Authentication. Copies of any rule, decision, or order of the ~~collector~~  
 21 secretary, and of any paper or report filed in any office maintained by him in the  
 22 administration of this ~~Sub-title;~~ Subtitle, may be authenticated under his signature,  
 23 and when so authenticated, shall be evidence in all courts of this state, with the same  
 24 force and weight as the originals thereof. For authenticating any such copy, the  
 25 ~~collector~~ secretary may charge a fee ~~of one dollar (\$1.00)~~ not to exceed twenty-five  
 26 dollars ~~which must be deposited to the operating account of his department.~~

27 B. Fees for searching for tax returns. In any case where the taxpayer  
 28 requests or authorizes the release of copies of any previously filed tax returns or any  
 29 other document subject to the provisions of R.S. 47:1508, the secretary is authorized

1 to charge a fee, regardless of whether or not the information is located. The fee  
2 associated with searching for any return or document shall not exceed fifteen dollars  
3 for each year or period requested. For a certified copy of a return or other document,  
4 the search fee for each year or tax period requested shall not exceed twenty-five  
5 dollars.

6 C. The secretary shall establish by rules and regulations promulgated  
7 pursuant to the Administrative Procedure Act, a reasonable fee schedule to collect  
8 fees for authenticating a copy of any document in its records as a true copy, and to  
9 collect fees and costs associated with searching for tax returns and correspondence.  
10 The fee schedule may be modified by rule or regulation as deemed necessary by the  
11 secretary.

12 D. Money received by the secretary from all fees imposed pursuant to this  
13 Section shall be deposited immediately upon receipt into the state treasury and, after  
14 compliance with the requirements of Article VII, Section 9(B) of the Constitution of  
15 Louisiana relative to the Bond Security and Redemption Fund, shall be designated  
16 as self-generated revenues of the Department of Revenue.

17 \* \* \*

18 §1576.2. Installment agreements; fees

19 A. The total amount of tax due on any tax return shall be paid no later than  
20 the date the return is required to be filed. However, if the taxpayer qualifies for an  
21 installment payment agreement, the secretary may consider an installment payment  
22 agreement for any taxes, interest, and penalties due, subject to the following  
23 requirements:

24 (1) The secretary shall charge a fee of one hundred five dollars to establish  
25 a standard installment payment agreement with a taxpayer. All payments for  
26 installment payment agreement fees shall be paid to the secretary of the Department  
27 of Revenue.

1           (2) If the taxpayer defaults on the installment payment agreement, the  
2           secretary shall charge a fee of sixty dollars to reinstate the agreement. Payment of  
3           the reinstatement fee shall be made to the secretary of the Department of Revenue.

4           (3) Notwithstanding the provisions of Paragraph (1) of this Subsection, the  
5           secretary shall not charge a fee to enter into a standard installment payment  
6           agreement with any taxpayer whose adjusted gross income is less than or equal to  
7           twenty-five thousand dollars.

8           (4) Money received by the secretary from fees imposed pursuant to this  
9           Section shall be deposited into the state treasury and, after compliance with the  
10           requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative  
11           to the Bond Security and Redemption Fund, shall be designated as self-generated  
12           revenues of the Department of Revenue.

13           B. The secretary may adopt rules and regulations in accordance with the  
14           Administrative Procedure Act to implement the fees provided for in this Section.

15                                   \*       \*       \*

16           §1578. Cancellation of lien, privilege, and mortgage; compromises

17                                   \*       \*       \*

18           B. In other cases, the secretary may authorize the cancellation or release of  
19           a lien, privilege, or mortgage subject to the following terms and conditions:

20                                   \*       \*       \*

21           (4)

22                                   \*       \*       \*

23           ~~(c) A complete record of all such compromises shall be kept by the secretary,~~  
24           ~~shall be open to public inspection, and, notwithstanding the provisions of R.S.~~  
25           ~~47:1508 and 1508.1, each such compromise shall be published in the department's~~  
26           ~~annual report.~~ Each application for compromise of a judgment shall be accompanied  
27           by a nonrefundable application fee of one hundred eighty-six dollars, made payable  
28           to the secretary of the Department of Revenue. Money received by the secretary  
29           from this fee shall be deposited into the state treasury and, after compliance with the

1 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative  
2 to the Bond Security and Redemption Fund, shall be designated as self-generated  
3 revenues of the Department of Revenue.

4 (d) The submission of any offer in compromise shall be accompanied by a  
5 nonrefundable initial payment of twenty percent of the amount of the offer. This  
6 payment shall be applied to the tax liability.

7 (e) A complete record of all such compromises shall be kept by the secretary,  
8 shall be open to public inspection, and, notwithstanding the provisions of R.S.  
9 47:1508 and 1508.1, each such compromise shall be published in the department's  
10 annual report.

11 \* \* \*

12 Section 2. This Act shall become effective on July 1, 2015; if vetoed by the governor  
13 and subsequently approved by the legislature, this Act shall become effective on July 1,  
14 2015, or on the day following such approval by the legislature, whichever is later.

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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)]

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HB 774 Reengrossed                      2015 Regular Session                      Thierry

**Abstract:** Provides for fees collected by the Dept. of Revenue for installment payment agreements, offset claims, authentication of certain records, searching for certain tax returns, and applications for compromise of judgment and offer in compromise.

Present law authorizes a taxpayer to request an installment payment plan from the secretary of the Dept. of Revenue for the payment of taxes, interest, and penalties due. If a taxpayer qualifies for an installment payment agreement, no further collection action shall be taken by the department as long as the taxpayer complies with the terms of the agreement. Further provides that if any installment payment is not paid timely, the entire amount of the unpaid tax shall be paid upon demand by the department. However, upon request of the taxpayer and approval of the secretary, the secretary may reinstate the installment payment agreement plan after payment of the \$60 reinstatement fee.

Proposed law retains present law but excludes offset claims against any state refund, federal refund, or vendor payment in which the taxpayer owing the debt has an interest from taxes in which an installment payment agreement applies. Further requires installment payments to be made by the taxpayer in accordance with the installment payment agreement.

Proposed law sets fees for the establishment of installment agreements at \$105 fee for a standard installment agreement and a reinstatement fee of \$60 if a taxpayer defaults on their installment payment agreement with the department. Further prohibits the department from

charging an installment payment fee for any taxpayer whose adjusted gross income is \$25,000 or less.

Present law authorizes the department to collect a fee of \$4 when an agency makes an offset claim in writing to the secretary. The writing shall include a certification by the agency that the debt to which the offset is made is legally collectible, liquidated sums due and owed to the agency.

Proposed law retains present law but increases the fee for offset claims from \$4 to \$25 per claim.

Present law authorizes the department to collect a fee of \$1 to authenticate copies of any rule, decision, or order and any paper or report filed in any office maintained by the secretary.

Proposed law increases the fee for the authentication of records from \$1 to an amount not to exceed \$25 and establishes fees to be paid for the searching for tax records. Proposed law authorizes the department to promulgate rules and regulations in accordance with the APA to implement proposed law regarding a reasonable fee schedule for authenticating a copy of any document in its records as a true copy and to collect fees associated with searching tax returns and correspondence. Proposed law further authorizes the department to modify regulations as deemed necessary.

Present law authorizes the secretary of the department to compromise any judgments for taxes of \$500,000 or less exclusive of interest and penalty. Further requires the secretary to maintain a complete record of all compromises in judgments. The record that shall be available for public inspection and published in the department's annual report.

Proposed law requires a nonrefundable application fee of \$186 for compromises of judgments. Further requires a nonrefundable initial payment of 20% of the amount of any offers in compromise.

Proposed law requires all monies received by the secretary from fees imposed pursuant to proposed law to be deposited into the state treasury and, after compliance with the requirements of present constitution, to be designated as self-generated revenues of the Dept. of Revenue.

Effective July 1, 2015.

(Amends R.S. 47:15(16), 105(A) and (B), 299.5, 1507, and 1578(B)(4)(c); Adds R.S. 47:1576.2 and 1578(B)(4)(d) and (e))

#### Summary of Amendments Adopted by House

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

1. Exclude offset claims against any state refund, federal refund, or vendor payment in which the taxpayer owing the debt has an interest from eligible taxes in which an installment payment agreement applies.
2. Require installment payments to be made by the taxpayer in accordance with the installment payment agreement.
3. Made technical amendment.

The House Floor Amendments to the engrossed bill:

1. Make technical changes to the bill.
2. Clarify that when a taxpayer defaults on installment payments, the secretary may reinstate the installment payment agreement plan after payment of a \$60 reinstatement fee.