

2015 Regular Session

HOUSE BILL NO. 638

BY REPRESENTATIVE IVEY

1 AN ACT

2 To amend and reenact R.S. 32:863(A)(3)(a) and (B)(introductory paragraph),
3 863.1(C)(1)(b), R.S. 40:1322(B), R.S. 47:1676(G), (H), (I), and (J), and R.S.
4 49:316.1 and to enact R.S. 32:8 and 57.1(C), and R.S. 47:1676(K), relative to state
5 agencies; to provide for fees charged by state departments, agencies, boards, and
6 commissions on certain transactions made by credit cards, debit cards, and similar
7 payments of obligations; to provide for electronic payments; to provide for debt
8 owed to certain state agencies; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 32:863(A)(3)(a) and (B)(introductory paragraph), and 863.1(C)(1)(b)
11 are hereby amended and reenacted and R.S. 32:8 and 57.1(C) are hereby enacted to read as
12 follows:

13 §32.8. Final delinquent debt; office of motor vehicles

14 A. For purposes of this Section, the following words shall have the following
15 meanings unless the context clearly indicates otherwise:

16 (1) "Debt" means any legally collectible liquidated sum due and owed to the
17 Department of Public Safety and Corrections, office of motor vehicles, pursuant to
18 R.S. 32:57.1, R.S. 32:863, or R.S. 32:863.1.

1 (2) "Delinquent debt" means a debt that is sixty days or more past due.

2 (3) "Final" means the amount due is no longer negotiable and that the debtor
3 has no further right of administrative and judicial review.

4 (4) "Office of motor vehicles" means the Department of Public Safety and
5 Corrections, office of motor vehicles.

6 B. The office of motor vehicles shall refer all final delinquent debts to the
7 office of debt recovery as provided in R.S. 47:1676. Final delinquent debt referrals
8 shall include data and information in the required format necessary to institute
9 collection procedures. All delinquent debts shall be authenticated by the office of
10 motor vehicles prior to being referred to the office of debt recovery. Once the
11 delinquent debt becomes final, and prior to referral to the office of debt recovery,
12 the office of motor vehicles shall notify the debtor in writing that failure to pay the
13 debt in full within sixty days shall subject the debt to the maximum amount owed
14 together with the additional fee collected by the office of debt recovery provided for
15 in R.S. 47:1676. All funds collected pursuant to the provisions of this Act shall be
16 deposited into the Debt Recovery Fund and utilized for the office of state police in
17 the amount of twenty-five million dollars.

18 C. The office of motor vehicles may promulgate rules and regulations in
19 accordance with the Administrative Procedure Act necessary to implement the
20 provisions of this Section, including rules for referring final delinquent debt.

21 * * *

22 §57.1. Failure to honor written promise to appear; penalty; disposition of fines

23 * * *

24 C. If after sixty calendar days from the date of the notification issued by the
25 Department of Public Safety and Corrections as required in Subsection A of this
26 Section the arrested person has failed to comply, the fees provided for in this Section
27 shall be considered final delinquent debt.

28 * * *

1 §863. Sanctions for false declaration; reinstatement fees; revocation of registration;
 2 review

3 A.

4 * * *

5 (3)(a) Sanctions for a violation of Paragraph (1) of this Subsection shall be
 6 imposed until proof of required liability security is provided to the secretary and all
 7 reinstatement fees are paid. Sanctions for a violation of Paragraph (2) of this
 8 Subsection shall be imposed for a period of not less than twelve months nor more
 9 than eighteen months. However, in no event shall these sanctions be removed until
 10 such time as proof of the required security is provided to the secretary along with all
 11 appropriate fees required by law, including a reinstatement fee of one hundred
 12 dollars per violation of Paragraph (1) of this Subsection if the vehicle was not
 13 covered by the required security for a period of one to thirty days, two hundred fifty
 14 dollars if the vehicle was not covered by required security for a period of thirty-one
 15 to ninety days, and five hundred dollars if the vehicle was not covered by required
 16 security for a period in excess of ninety days. No reinstatement fee shall be imposed
 17 by the secretary if the vehicle was not covered by required security for a period of
 18 ten days or less and the insured surrenders the vehicle's license plate to the secretary
 19 within ten days. The reinstatement fees for violations of Paragraph (2) of this
 20 Subsection shall be as follows: two hundred fifty dollars for a first violation, five
 21 hundred dollars for a second violation, and one thousand dollars for a third or
 22 subsequent violation. The reinstatement fee shall not be owed for an alleged
 23 violation of Paragraph (2) of this Subsection when proof of the required security is
 24 provided to the secretary within sixty days of the date of the notice. If at the time of
 25 reinstatement, a person has multiple violations and is within sixty days of the notice,
 26 the total amount of fees to be paid shall not exceed eight hundred fifty dollars, for
 27 violations of Paragraph (1) of this Subsection, one thousand seventy-five dollars for
 28 violations of Paragraph (2) of this Subsection. At no time shall the total amount of

1 fees, including administrative fees, exceed two hundred fifty dollars for persons
 2 sixty-five years or older. After sixty days of the date of the notice, all fees shall be
 3 considered final delinquent debt and therefore owed, and the eight hundred fifty
 4 dollar limit for persons under sixty-five years shall no longer apply.

5 * * *

6 B. The sanctions of Paragraph (A)(1) of this Section shall not be imposed,
 7 and any fine, fee, or other monetary sanction which has been remitted to the
 8 secretary pursuant to the sanctions of this Section, specifically including any
 9 reinstatement fee paid pursuant to Paragraph (A)(3) of this Section and any fee paid
 10 pursuant to Paragraph (D)(5) of this Section, shall be promptly refunded by the
 11 secretary to the person who paid it, if the owner or lessee furnishes any of the
 12 following within sixty days of the notice:

13 * * *

14 §863.1. Evidence of compulsory motor vehicle liability security contained in
 15 vehicle; enforcement; penalty; fees

16 * * *

17 C.(1)

18 * * *

19 (b) The owner of the vehicle shall have three calendar days, excluding
 20 Saturdays, Sundays, and legal holidays, from the date that the notice of
 21 noncompliance was issued to present to the office of motor vehicles proof of
 22 insurance coverage or security in effect at the time of the issuance of the notice of
 23 noncompliance. If the vehicle was properly insured at the time the notice was issued,
 24 any valid license plate shall be returned within forty-eight hours, exclusive of legal
 25 holidays, to the owner of the vehicle at no cost to the owner. However, if, within
 26 sixty days from the date the notice of noncompliance is issued, the owner fails to
 27 provide proof of the fact that the vehicle was properly insured at the time the notice
 28 of noncompliance was issued, the chief administrative officer of the office of motor
 29 vehicles shall destroy, or shall cause to be destroyed, the license plate removed from

1 that owner's vehicle and shall notify the secretary that the owner of the vehicle is not
 2 in compliance with the compulsory liability law. Upon receipt of such notification,
 3 the secretary shall revoke the registration of such vehicle. Sixty days after the date
 4 of issuance of the notice of noncompliance, the fees imposed in this Section shall be
 5 owed even if the owner subsequently provides proof the motor vehicle was insured,
 6 and all such fees shall be considered final delinquent debt.

7 * * *

8 Section 2. R.S. 40:1322(B) is hereby amended and reenacted to read as follows:

9 §1322. Credit card, charge card, and debit card transactions with the Department of
 10 Public Safety and Corrections; procedures for acceptance; administrative
 11 action

12 * * *

13 ~~B.(1) The department may charge a convenience fee of one dollar on any~~
 14 ~~transaction whereby a person uses such a card for payment through a touch-tone~~
 15 ~~telephone or through the Internet.~~

16 (2) The department may charge a convenience fee on any transaction
 17 whereby a customer ~~appears in person~~ requests payment by credit card, charge card,
 18 or debit card for payment through telephone, in person, by regular mail, or via the
 19 Internet to conduct business with the department and requests payment by credit
 20 card, charge card, or debit card. Prior to charging the convenience fee, the total
 21 amount of the fee shall be disclosed to the customer. The customer shall have the
 22 right to decline payment of the fee and to submit payment for his transaction using
 23 another tender type. The convenience fee ~~shall be~~ may be a uniform dollar amount,
 24 a percentage of the transaction with a minimum fee of one dollar and a maximum fee
 25 of one hundred fifty dollars. The percentage rate used to calculate the fee shall be
 26 the percentage rate used by the bank to calculate its processing fee. transaction, or
 27 a tiered amount based on the transaction amount.

28 * * *

1 Section 3. R.S. 47:1676(G), (H), (I), and (J) are hereby amended and reenacted and
2 R.S. 47:1676(K) is hereby enacted to read as follows:

3 §1676. Debt recovery

4 * * *

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

8 (1) Once an agency determines a debt is owed, it shall send the debtor an
9 initial notice of the debt which requests payment, outlines any additional information
10 necessary to identify the nature of the debt and the amount due, and notifies the
11 debtor that failure to pay the debt in full within sixty days shall subject the debt to
12 be transferred to the office for collection of the maximum amount owed with an
13 additional collection fee added to the debt.

14 (2) If, after thirty days from the date of the initial notification, the debtor has
15 failed to pay the debt owed, the agency shall send a second notice to the debtor with
16 the same information required in Paragraph (1) of this Subsection.

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

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

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

1 H. I. The secretary may enter into one or more reciprocal collection and
 2 offset of indebtedness agreements with the federal government, pursuant to which
 3 the state shall agree to offset from state tax refunds and payments otherwise due to
 4 vendors and contractors providing goods or services to agencies, non-tax debt owed
 5 to the federal government, and the federal government shall agree to offset from
 6 federal payments to vendors, contractors, and taxpayers debt owed to the state. The
 7 secretary shall include all eligible collection accounts placed with the attorney
 8 general's office for all available offsets.

9 F. J. After the office exercises and employs its collection methods and tools,
 10 it shall evaluate and recommend any uncollectible debt for sale or securitization in
 11 accordance with the provisions of R.S. 39:88.2 and 88.3.

12 J. K. The operations of the office shall be subject to annual review by the
 13 Cash Management Review Board.

14 Section 4. R.S. 49:316.1 is hereby amended and reenacted to read as follows:

15 §316.1. Payments by treasury approved credit cards, and debit cards, and other
 16 forms of electronic payments; authorizations; contracts; fees

17 A.(1) The state, through any department, agency, board, commission, or
 18 other state entity hereinafter referred to as "state entity" may accept payment of any
 19 obligation such state entity is authorized to collect, including; but not limited to;
 20 taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest,
 21 sanctions, stamps, surcharges, assessments, obligations, and any other similar
 22 charges or obligations to any state entity hereinafter referred to collectively as "state
 23 charges" by credit cards, debit cards, ~~or similar payment devices~~ and any other forms
 24 of electronic payments approved by the treasurer as provided in this Section.

25 (2)(a) The state treasurer shall establish a fee for approved payment of
 26 transactions authorized by this Section for each card ~~or device~~ and any other forms
 27 of electronic payment and for each method of conducting transactions to be accepted.
 28 The fee shall be established as uniformly as possible. When accepting such cards or
 29 ~~devices~~ any other forms of electronic payments as authorized by this Section, any
 30 state entity ~~shall~~ may assess a fee, if such fee has been established and in the amount

1 established by the treasurer pursuant to this Section, provided that for each method
 2 of conducting transactions by the state entity, the fee is a uniform dollar ~~amount or~~
 3 ~~percentage assessed for each card or device and for each method of conducting~~
 4 ~~transactions to be accepted by the state entity, and such~~ amount, a percentage of the
 5 transaction, or a tiered amount based on the transaction amount assessed for each
 6 card and any other form of electronic payment. Such fee shall be considered a "state
 7 charge" as provided in this Section. The provisions of this Paragraph shall not be
 8 applicable to public postsecondary institutions of higher education or to transactions
 9 administered by a third-party ~~processor for the Department of Revenue, the~~
 10 ~~Department of Insurance, the Department of Transportation and Development, the~~
 11 ~~Department of Public Safety and Corrections, the Department of Wildlife and~~
 12 ~~Fisheries, or the Department of Environmental Quality~~ solution.

13 (b) Notwithstanding the provisions of Subparagraph (2)(a) of this Subsection
 14 and Subsection C of this Section, each public postsecondary institution of higher
 15 education may assess a fee, for each card ~~or device~~ and any other forms of electronic
 16 payment, and for each method of conducting transactions, to be accepted for
 17 approved payment of transactions authorized by this Section. The amount of any
 18 such fee shall be as determined by the respective public postsecondary institution of
 19 higher education and shall be considered a "state charge" as provided in this Section.
 20 Each public postsecondary institution of higher education may negotiate and enter
 21 into contracts, for periods not to exceed five years, for provision of, and activities
 22 related to, the use of such cards ~~or devices~~ and any other forms of electronic
 23 payments. Contracts may be made with financial providers, third-party ~~processors,~~
 24 ~~solutions,~~ or providers for Internet and other similar use and payment acceptance
 25 with respect to such cards ~~or devices~~ and any other forms of electronic payments.

26 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this
 27 Paragraph, the fee charged by a third-party ~~processor~~ solution ~~for the Department of~~
 28 ~~Revenue, the Department of Insurance, the Department of Transportation and~~
 29 ~~Development, the Department of Public Safety and Corrections, the Department of~~
 30 ~~Wildlife and Fisheries, or the Department of Environmental Quality~~ any state entity

1 shall be a convenience fee paid directly to the private entity third-party processor
 2 solution by the payor and shall not be considered a "state charge" as provided in this
 3 Section. However, the amount of the convenience fee, after review and
 4 recommendation by the treasurer, shall be approved by the Senate Committee on
 5 Revenue and Fiscal Affairs and the House Committee on Ways and Means. In
 6 addition, the amount of the convenience fee shall be disclosed to the payor before the
 7 transaction is completed, and the payor shall be given the option of canceling the
 8 transaction at that time.

9 (3) For the purpose of this Section, "third-party solution" shall mean a
 10 company that provides a software application, a gateway, or both to capture credit
 11 card and any other forms of electronic payments for processing by a merchant
 12 services acquirer.

13 ~~(3)~~ (4) The authorization and use of credit and debit cards and ~~similar~~
 14 ~~payment devices~~ any other forms of electronic payments to make or accept payment
 15 for any government charge or required payment shall be in accordance with the
 16 provisions of this Section, and any rules, regulations, contracts, agreements, or
 17 policies promulgated or entered into pursuant to this Section.

18 B. When a state entity accepts payment of any state charge by any card or
 19 ~~device~~ other forms of electronic payment, the liability therefor is not finally
 20 discharged and obligation for payment of such state charge is not extinguished until
 21 the state entity has received final settlement, payment, or other credit in full for the
 22 state charge and any additional permissible fees associated with the transaction.
 23 Upon receipt of the final settlement, payment, or other credit, the state charge shall
 24 be deemed paid on the date the credit or debit charge was initially made.

25 C. The treasurer shall designate any credit cards, debit cards, or ~~similar~~
 26 ~~payment devices~~ other forms of electronic payments that state entities may accept
 27 to receive payment of any state charges, and shall from time to time, but at least
 28 annually, publish a list of approved credit and debit cards by card organization brand
 29 by which any state entity will be authorized to accept payment of any charge or

1 payment the state entity is authorized to collect. Any state entity may recommend
2 that the treasurer consider a specific credit or debit card by card organization brand
3 for approval. Except as provided in Subparagraph (A)(2)(b) of this Section, he shall
4 have authority to negotiate and enter into all contracts, for periods not to exceed five
5 years, with providers of such cards or ~~devices~~ other forms of electronic payments,
6 including ~~master or statewide financial providers~~ merchant service acquirers, third-
7 party ~~processors~~ solutions, or providers for Internet and other similar use and
8 payment acceptance using such cards or ~~devices~~ other forms of electronic payments.
9 In negotiating such contracts and approving designated cards ~~or devices~~ and other
10 forms of electronic payments, the treasurer shall seek to achieve uniform
11 implementation and standard terms and provisions with respect to the acceptance of
12 payments by state entities, in order to achieve maximum efficiency, uniformity, and
13 cost effectiveness. Any contracts pursuant to this Section may include such
14 provisions, terms, and conditions as the treasurer shall deem necessary or appropriate
15 to fulfill those purposes, including specific terms applicable to any particular state
16 entity, such as any limitations on amounts and limits of liabilities eligible for
17 payment, operational requirements, types, terms, and payment of fees.

18 D. The treasurer shall by rule establish procedures and guidelines for the
19 approval and operation of any cards ~~or devices~~ and other forms of electronic
20 payments, and fix applicable processing fees, pursuant to this Section.

21 E. The authorizations for and use of any cards ~~or devices~~ and other forms of
22 electronic payments by any state department, agency, board, commission, or other
23 state entity, to accept payment for any state charges, shall be pursuant to and in
24 accordance with this Section, notwithstanding any other provisions of law.

25 F. Any contracts or other binding arrangements for acceptance of credit or
26 debit cards or ~~any other devices~~ other forms of electronic payments, in existence on
27 August 15, 1999, shall not be affected by this Section and shall be honored according
28 to their terms.

1 G. The provisions of this Section shall not apply to any payments made
2 through a nationwide licensing or registry system, or any payments made pursuant
3 to the Louisiana Securities Law, as provided for in R.S. 51:701 et seq.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____