

2016 Regular Session

HOUSE BILL NO. 872

BY REPRESENTATIVE NANCY LANDRY

MOTOR VEHICLES: Provides relative to debt referred to the office of debt recovery

1 AN ACT

2 To amend and reenact R.S. 32:8(A)(2) and (3) and (B), 57.1(C), 863(A)(3)(a), and

3 863.1(C)(1)(b), and to enact R.S. 32:9, relative to debts referred to the office of debt

4 recovery by the office of motor vehicles; to authorize the office of motor vehicles to

5 enter into installment agreements with persons for payment of outstanding fines,

6 penalties, and fees; to authorize the office of motor vehicles to register motor

7 vehicles and issue driving privileges to persons during the term of such installment

8 agreements; to authorize the promulgation of rules and regulations; to provide for

9 definitions; to provide for effective dates; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 32:8(A)(2) and (3) and (B), 57.1(C), 863(A)(3)(a), and

12 863.1(C)(1)(b) are hereby amended and reenacted to read as follows:

13 §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           (2) "Delinquent debt" means a debt that is sixty days or more past due and  
 2           for which the debtor has not entered into an installment agreement with the office of  
 3           motor vehicles to pay.

4           (3) "Final" means the amount due is no longer negotiable and that the debtor  
 5           has no further right of administrative and judicial review. An amount due shall not  
 6           be final during the term of an installment agreement between the office of motor  
 7           vehicles and the debtor.

8                                       \*     \*     \*

9           B.(1) The office of motor vehicles shall refer all final delinquent debts to the  
 10          office of debt recovery as provided in R.S. 47:1676. Final delinquent debt referrals  
 11          shall include data and information in the required format necessary to institute  
 12          collection procedures.

13          (2) All delinquent debts shall be authenticated by the office of motor  
 14          vehicles prior to being referred to the office of debt recovery. Once the delinquent  
 15          debt becomes final, and prior to referral to the office of debt recovery, the office of  
 16          motor vehicles shall notify the debtor in writing that failure to pay the debt in full  
 17          within sixty days shall subject the debt to the maximum amount owed together with  
 18          the additional fee collected by the office of debt recovery provided for in R.S.  
 19          47:1676. All funds collected pursuant to the provisions of this Act shall be deposited  
 20          into the Debt Recovery Fund and utilized for the office of state police in the amount  
 21          of twenty-five million dollars.

22                                       \*     \*     \*

23          §57.1. Failure to honor written promise to appear; penalty; disposition of fines

24                                       \*     \*     \*

25          C. If after sixty calendar days from the date of the notification issued by the  
 26          Department of Public Safety and Corrections as required in Subsection A of this  
 27          Section the arrested person has failed to comply or enter into an installment  
 28          agreement with the office of motor vehicles, the fees provided for in this Section  
 29          shall be considered final delinquent debt. If the person has entered into an

1 installment agreement and missed a payment, the provisions of R.S. 32:9(D)(6) shall  
2 govern when the fees provided for in this Section shall be considered final delinquent  
3 debt.

4 \* \* \*

5 §863. Sanctions for false declaration; reinstatement fees; revocation of registration;  
6 review

7 A.

8 \* \* \*

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

1 reinstatement, a person has multiple violations and is within sixty days of the notice,  
 2 the total amount of fees to be paid shall not exceed eight hundred fifty dollars, for  
 3 violations of Paragraph (1) of this Subsection, one thousand seventy-five dollars for  
 4 violations of Paragraph (2) of this Subsection. At no time shall the total amount of  
 5 fees, including administrative fees, exceed two hundred fifty dollars for persons  
 6 sixty-five years or older. After sixty days of the date of the notice, or if an  
 7 installment agreement has not been entered into, all fees shall be considered final  
 8 delinquent debt and therefore owed, and the eight hundred fifty dollar limit for  
 9 persons under sixty-five years shall no longer apply. If the person has entered into  
 10 an installment agreement and missed a payment, the provisions of R.S. 32:9(D)(6)  
 11 shall govern when the fees provided for in this Section shall be considered final  
 12 delinquent debt.

\* \* \*

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

\* \* \*

C.(1)

\* \* \*

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, unless the debtor has  
 7 entered into an installment agreement with the office of motor vehicles to pay such  
 8 fees. If the person has entered into an installment agreement and missed a payment,  
 9 the provisions of R.S. 32:9(D)(6) shall govern when the fees provided for in this  
 10 Section shall be considered final delinquent debt.

11 \* \* \*

12 Section 2. R.S. 32:9 is hereby enacted to read as follows:

13 §9. Installment agreement; outstanding penalties, fines, and fees owed to the office  
 14 of motor vehicles

15 A.(1)(a) All outstanding penalties, fines, and fees owed to the office of motor  
 16 vehicles shall be paid no later than the date allowed by law. However, on or before  
 17 January 1, 2017, the office of motor vehicles shall enter into installment agreements,  
 18 as authorized by this Section, with eligible persons to pay outstanding fines,  
 19 penalties, and fees owed to the office of motor vehicles.

20 (b) An installment agreement shall not be used to pay sales or use taxes or  
 21 related penalties and interest, vehicle registration license tax, or titling fees when  
 22 submitting a transaction to title or register a motor vehicle. However, if the office  
 23 of motor vehicles has previously sent a notice to the debtor that the payment made  
 24 on a motor vehicle title or registration transaction was dishonored by a bank  
 25 processing the transaction, the office of motor vehicles may accept an installment  
 26 agreement to collect that dishonored payment in addition to any outstanding fees,  
 27 penalties, or interest that may be added to the total due to the dishonored payment.

28 (2) All notices of outstanding fines, penalties, and fees owed to the office of  
 29 motor vehicles shall inform the debtor that he may qualify to pay sums due by

1 installment agreement if eligible and to inquire with the office of motor vehicles to  
2 determine eligibility and terms.

3 (3) The office of motor vehicles shall develop an official form to be utilized  
4 for installment agreements authorized by this Section. Installment agreements not  
5 on this form shall be invalid.

6 B. A debtor who owes the office of motor vehicles one hundred dollars or  
7 more in outstanding fines, penalties, or fees, or any combination thereof, is eligible  
8 to pay such amounts by means of an installment agreement with the office of motor  
9 vehicles, should all of the following conditions be met:

10 (1) All conditions of reinstatement other than payment of outstanding fines,  
11 penalties, and fees owed to the office of motor vehicles have been satisfied.

12 (2) A request for an installment agreement is made within the time provided  
13 for in the notice from the office of motor vehicles informing the debtor of the  
14 outstanding fines, penalties, and fees owed to the office of motor vehicles.

15 C. Any installment agreement entered into by the office of motor vehicles  
16 and a debtor shall be in writing and signed by both parties.

17 D. The terms of an installment agreement shall provide for the following:

18 (1) The debtor to pay the outstanding fines, penalties, and fees owed to the  
19 office of motor vehicles in at least four installments.

20 (2) The debtor to prepay sums due pursuant to the installment agreement in  
21 full at any time without penalty.

22 E.(1) All payments made pursuant to an installment agreement shall be paid  
23 by check, bank draft, post office money order, express money order, electronic funds  
24 transfer, or credit or debit cards.

25 (2) Each time a debtor makes a payment pursuant to an installment  
26 agreement he shall be issued a receipt indicating the amount paid and the amount  
27 outstanding pursuant to the installment agreement.

28 F.(1) If any installment payment is not paid on or before the date fixed for  
29 its payment, the entire amount unpaid pursuant to the installment agreement shall be

1 paid by the debtor within thirty days from the date of notice and demand from the  
2 secretary. The notice shall further advise the debtor that his driver's license shall be  
3 suspended upon the expiration of the thirty days if the payments due pursuant to the  
4 installment agreement are not made current within that thirty-day period or the  
5 agreement is not reinstated by the secretary within that thirty-day period.

6 (2) Upon request of the debtor within the thirty days from the date of the  
7 notice and demand required in Paragraph (1) of this Subsection and approval of the  
8 secretary, the secretary may reinstate the installment agreement after payment of the  
9 missed installment.

10 (3) If no request for reinstatement of an installment agreement is made  
11 within thirty days of notice and demand required in Paragraph 1 of this Subsection,  
12 or the secretary rejects a request to reinstate an installment agreement, any remaining  
13 debt as defined by R.S. 32:8(A)(1) shall be final delinquent debt, as defined in R.S.  
14 32:8(A)(3), and referred to the Department of Revenue, office of debt recovery, for  
15 collection pursuant to R.S. 47:1676 and subject to the maximum amount owed, with  
16 a credit provided for amounts paid pursuant to the installment agreement entered into  
17 pursuant to this Section, together with the additional fee collected by the office of  
18 debt recovery.

19 G.(1) A debtor's Class "E" driving privileges and motor vehicle or truck  
20 registration privileges shall be reinstated when an installment agreement is executed  
21 by the debtor and the office of motor vehicles. All blocks on the debtor's license  
22 record shall be removed at that time. The office of motor vehicles may include the  
23 applicable fee for reinstatement of driving privileges in the total to be owed pursuant  
24 to an installment agreement entered into pursuant to this Section.

25 (2) If an installment payment is missed and no request for reinstatement of  
26 an installment agreement is made following a demand from the secretary, or the  
27 secretary rejects a request to reinstate an installment agreement, the debtor's driving  
28 privileges and motor vehicle or truck registration privileges shall be suspended. The

1 provisions of R.S. 32:414 shall apply with regard to judicial review of the suspension  
2 and reinstatement of the suspension.

3 H. Notwithstanding any provision of law to the contrary, the office of motor  
4 vehicles shall distribute monies owed to other entities from payment of outstanding  
5 finances, penalties, and fees owed to the office of motor vehicles received pursuant to  
6 an installment agreement within thirty days of receipt of the final payment of the  
7 installment agreement, or within thirty days of the termination of an installment plan  
8 for nonpayment.

9 I. The office of motor vehicles may adopt rules and regulations in  
10 accordance with the Administrative Procedure Act to implement the provisions of  
11 this Section.

12 Section 3. Sections 2, 3, and 4 of this Act shall become effective upon signature by  
13 the governor or, if not signed by the governor, upon expiration of the time for bills to  
14 become law without signature by the governor, as provided by Article III, Section 18 of the  
15 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the  
16 legislature, this Act shall become effective on the day following such approval.

17 Section 4. In the event that Sections 2, 3, and 4 of this Act become effective, Section  
18 1 of this Act shall become effective on the date that the office of motor vehicles begins  
19 entering into installment agreements pursuant to the authority granted in this Act.

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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 872 Original

2016 Regular Session

Nancy Landry

**Abstract:** Authorizes the office of motor vehicles to enter into installment agreements to pay outstanding fees, penalties, and fines owed to the office of motor vehicles.

#### INSTALLMENT AGREEMENTS

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

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



Proposed law requires, on or before Jan. 1, 2017, 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.

Proposed law prohibits an installment agreement from being used to pay sales or use taxes or related penalties and interest, vehicle registration license tax, 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, present 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.

Proposed law requires all notices provided by the office of motor vehicles notifying a person of outstanding fines, penalties, or fees to inform they may be eligible to pay the outstanding amount due by installment agreement and to inquire with the office of motor vehicles to determine eligibility and requirements.

Proposed 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 will not be valid.

Proposed law provides that a debtor who owes the office of motor vehicles \$100 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 be 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.

Proposed law provides that any installment agreement entered into by the office of motor vehicles and a debtor shall be in writing and signed by both parties.

#### **INSTALLMENT AGREEMENT TERMS**

Proposed law provides that the terms of an installment agreement between the office of motor vehicles and a debtor require the following:

- (1) The debtor to pay the outstanding fines, penalties, and fees owed to the office of motor vehicles in at least four installments.
- (2) The debtor to prepay sums due pursuant to the installment agreement in full at any time without penalty.

Proposed law requires all payments made pursuant to an installment agreement be paid by check, bank draft, post office money order, express money order, electronic funds transfer, or credit or debit cards.

Proposed law specifies that each time a debtor makes a payment pursuant to an installment agreement he must be issued a receipt stating the amount paid and the amount outstanding pursuant to the installment agreement.

Proposed law 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 shall be paid by the debtor within 30 days upon notice and demand from the secretary.

Proposed law further specifies that if no request for reinstatement of an installment agreement is made following demand from the secretary to pay the entire amount unpaid, or the secretary rejects a request to reinstate an installment agreement to pay the entire amount of unpaid debt associated with the suspension of an operator's license for failure to appear before a court subject to a written promise to appear or failure to abide by certain insurance requirements, the debt shall be final delinquent debt, as those terms are defined in present law, and referred to the Dept. of Revenue, office of debt recovery, for collection subject to the maximum amount owed, with a credit provided for amounts paid pursuant to the installment agreement entered into pursuant to this proposed law, together with the additional fee collected by the office of debt recovery.

#### **REINSTATEMENT OF DRIVING PRIVILEGES UPON EXECUTION OF INSTALLMENT AGREEMENT**

Present 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.

Proposed 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 proposed law.

Proposed law provides that if an installment payment is missed and no request for reinstatement of an installment agreement is made following demand from the secretary or the secretary rejects a request to reinstate an installment agreement, the debtor's driving privileges and motor vehicle or truck registration privileges will be suspended. Present law (R.S. 32:414) shall apply with regards to judicial review of the suspension and reinstatement of the suspension.

#### **MONIES COLLECTED PURSUANT TO INSTALLMENT AGREEMENTS OWED TO OTHER ENTITIES**

Proposed law requires the office of motor vehicles to distribute monies owed to other entities from payment of outstanding fines, penalties, and fees owed to the office of motor vehicles and received pursuant to an installment agreement within 30 days of receipt of the final payment pursuant to the installment agreement or within 30 days of the termination of an installment plan for nonpayment.

#### **INSTALLMENT AGREEMENTS AND DEBTS WHICH ARE AUTHORIZED BY LAW TO BE REFERRED TO THE OFFICE OF DEBT RECOVERY**

Present 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. 32:863 and 863.1) are defined as "debt".

Present law defines "delinquent debt" as a debt that is 60 days or more past due.

Proposed law defines "delinquent debt" as a debt that is 60 days or more past due and for which the debtor has not entered into an installment agreement with the office of motor vehicles to pay.

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

Proposed law provides that an amount due shall not be "final" during the term of an installment agreement between the office of motor vehicles and the debtor.

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

Present 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.

Proposed law permits a debtor to pay such "final delinquent debt" pursuant to an installment agreement prior to the debt being referred to the office of debt recovery.

Proposed law provides that if the debtor fails to request reinstatement of an installment agreement following a missed installment payment and demand from the secretary to pay the entire amount unpaid of debt as defined in present law or the secretary rejects a request to reinstate an installment agreement to pay entire amount unpaid of debt as defined in present law, the debt shall be final delinquent debt as defined in present law and referred to the Dept. of Revenue, office of debt recovery, for collection and subject to the maximum amount owed, with a credit provided for amounts paid pursuant to the installment agreement entered into pursuant to proposed law, together with the additional fee collected by the office of debt recovery.

#### **EFFECTIVE DATES**

Proposed law provides that the effective date for the authorization for the office of motor vehicles to enter into installment agreements is upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, the authorization shall be effective on the day following such approval.

Proposed law provides that changes to laws pertaining to debt which may be referred to the office of debt recovery for collection shall become effective on such date as the office of motor vehicles begins entering into installment agreements as authorized by proposed law.

(Amends R.S. 32:8(A)(2) and (3) and (B), 57.1(C), 863(A)(3)(a), and 863.1(C)(1)(b); Adds R.S. 32:9)