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## DIGEST

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HB 245 Engrossed

2016 Regular Session

Marcelle

**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 requires 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, and thereafter, 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 taxes, 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, proposed 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 inform such person that he 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 all installment agreements to be in writing and signed by both parties.

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 would not be valid.

Proposed law provides that a debtor who owes the office of motor vehicles \$250 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 upon termination of an installment agreement executed pursuant to proposed law, all outstanding amounts due under the installment agreement would final debt as defined by present law (R.S. 32:8 or R.S. 47:1676).

Proposed law provides that any installment agreement entered into pursuant to proposed law would constitute a waiver by the debtor of any right to administrative or judicial review regarding sums due under an installment agreement.

Proposed law provides that any notices provided to a debtor who enters into an installment agreement pursuant to proposed law would constitute satisfaction of the notice requirements of present law (R.S. 32:8 and R.S. 47:1676).

### **INSTALLMENT AGREEMENT TERMS**

Proposed law requires any installment agreement to require a debtor to provide fixed and equal monthly payments as follows:

If the debtor owes \$250, the debtor must pay six equal monthly installments.

If the debtor owes from \$251 dollars to \$750, the debtor must pay 12 equal monthly installments.

If the debtor owes from \$751 to \$1500, the debtor must pay 24 equal monthly installments.

If the debtor owes from \$1,501 to \$2,500, the debtor must pay 36 equal monthly installments.

If the debtor owes from \$2,501 to \$4,999, the debtor must pay 48 equal monthly installments.

If the debtor owes \$5,000 or more, the debtor must pay up to 60 monthly installment payments.

Proposed law permits the commissioner of the office of motor vehicles to grant longer payment terms for amounts of \$5,000 or more owed based on proof of income indicating a debtor's financial limitations to pay within 60 months.

Proposed law requires the first payment of an installment agreement to be due upon execution of the installment agreement.

Proposed law allows prepayment of sums due pursuant to an installment agreement to be made without imposition of penalty.

Proposed law requires all installment agreement payments to be made through an electronic automated transaction initiated by the office of motor vehicles or a third party on behalf of the office of motor vehicles.

Proposed law permits such installment agreement payments to be made by bank draft, electronic funds transfer, or credit or debit card, including but not limited to reloadable prepaid credit or debit cards.

Proposed law requires all debtors to provide necessary information for installment payments to be paid by electronic automated transactions.

Proposed law requires that each time an installment agreement payment is made that the debtor will be issued a statement or receipt indicating the amount paid and the amount outstanding under the installment agreement.

Proposed law allows the commissioner of the office of motor vehicles to suspend an installment agreement executed pursuant to proposed law for up to 60 days following a request based upon good cause. Specifies that good cause would be determined by the commissioner.

Proposed law prohibits installment payments from being made during the period of suspension and requires that payments would resume upon the day following the last day of the suspension period.

Proposed law requires that any suspension of an installment agreement pursuant to proposed law would extend the term of the installment agreement by the length of any suspension. Requires a debtor's driving privileges would remain active during the suspension period unless otherwise blocked, revoked, or suspended.

### **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 commissioner of the office of motor vehicles or the commissioner 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.

#### **FAILURE TO MAKE PAYMENTS DUE UNDER AN INSTALLMENT AGREEMENT**

Proposed law requires that in the event that 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 60 days from the date of notice and demand from the commissioner of the office of motor vehicles.

Proposed law requires the notice from the office of motor vehicles to advise the debtor that his driver's license shall be suspended upon the expiration of the 60 days 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 office of motor vehicles within that 60 day period.

Proposed law requires that in the event that an installment agreement includes payment of delinquent or final debt as defined by present law (R.S. 32:8), such notice must include all information required by present law (R.S. 32:8).

Proposed law in the event that an installment agreement includes payment of delinquent or final debt as defined by present law (R.S. 47:1676), the notice must include all information required by present law (R.S. 47:1676).

The notice required by proposed law would satisfy the notice requirements of present law (R.S. 32:8 and R.S. 47:1676).

Proposed law permits the commissioner of the office of motor vehicles to reinstate an installment agreement if the request for reinstatement is made within 60 days from the date of the required notice of a missed payment and the debtor makes the payment.

#### **INSTALLMENT AGREEMENTS AND REFERRAL 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. 32:368 and 368.1) 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 no request for reinstatement of an installment agreement is made within 60 days of the notice and demand required by proposed law, or the commissioner of the office of motor vehicles 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 by present law for which the following shall apply:

- (1) For sums due which are not debt as defined by R.S. 32:8, the office of motor vehicles may refer any amounts outstanding under the installment agreement for collection by the appropriate office.
- (2) For sums due which are debt as defined by R.S. 32:8, the office of motor vehicles must refer any amounts outstanding under the installment agreement to the Dept. of Revenue, office of debt recovery, for collection as provided in present law and the Dept. of Revenue, office of debt recovery, will provide a credit for amounts paid under an installment agreement executed pursuant to proposed law.

#### **OFFICE OF DEBT RECOVERY AUTHORIZED TO ADMINISTER INSTALLMENT AGREEMENTS AND COLLECT INSTALLMENT PAYMENTS**

Proposed law authorizes the Dept. of Revenue, office of debt recovery, to provide services for the administration and collection of payments due pursuant to installment agreements entered into by a debtor and the office of motor vehicles pursuant to proposed law.

Proposed law authorizes the Dept. of Revenue, office of debt recovery, to collect a transaction fee not to exceed \$3 for each payment made pursuant to an installment agreement.

Proposed law provides that the Dept. of Revenue, office of debt recovery, may charge fees authorized by present law relating to electronic transactions (R.S. 40:1322 and R.S. 49:316.1) to be completed pursuant to proposed law.

Proposed law provides that present law regarding installment agreements for tax related debt and payment of other types of debt administered by the Dept. of Revenue, office of debt recovery, would not apply to installment agreements executed pursuant to proposed law.

### **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 of 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 the state constitution. 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 will 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), 57.1(C), 863(A)(3)(a) and 863.1(C)(1)(b); Adds R.S. 32:429.4 and R.S. 47:1676(L))

## Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make all outstanding amounts due under an installment agreement final debt upon termination of an installment agreement.
2. Provide that upon termination of an installment agreement executed pursuant to proposed law, all outstanding amounts due under the installment agreement would be final debt as defined by present law (R.S. 32:8 or R.S. 47:1676).
3. Provide that any installment agreement entered into pursuant to proposed law would constitute a waiver by the debtor of any right to administrative or judicial review regarding sums due under an installment agreement.
4. Provide that any notices provided to a debtor who enters into an installment agreement pursuant to proposed law would constitute satisfaction of the notice requirements of present law (R.S. 32:8 and R.S. 47:1676).
5. Specify that notice provided to a debtor who enters into an installment agreement with the office of motor vehicles would constitute satisfaction of any notice required by present law (R.S. 32:8 or R.S. 47:1676).
6. Change the minimum amount owed for which a debtor can enter into an installment agreement to pay from \$100 to \$250.
7. Require a debtor to make fixed monthly equal installment payments. Specify that the number of payments would be based upon the total amount owed, with a longer period of time to pay if the debtor owes more.
8. Require that the first payment of an installment agreement be made when the installment agreement is executed.
9. Require that all installment agreement payments would have to be by electronic automated transactions. Specify that this could be a bank draft, electronic funds transfer, credit or debit card including but not limited to reloadable prepaid debit or credit cards.
10. Authorize the commissioner of the office of motor vehicles to suspend an installment agreement for up to 60 days upon a showing of good cause. Specify that any such suspension would increase the term of the installment agreement by that time.
11. Allow a debtor 60 days rather than 30 days to become current with installment payments upon a missed payment.

12. Specify that if a debtor did not bring his installment agreement current or have the agreement reinstated within that 60-day period, certain debt would be final and required to be turned over to the office of debt recovery for collection and other debt would be final and allowed to be turned over to the office of debt recovery for collection.
13. Provide that the office of motor vehicles is not to be considered a debt collection agency as defined in present law (R.S. 9:3524.1).
14. Allow the office of debt recovery to provide administrative and collection services for installment agreements.
15. Allow the office of debt recovery to charge certain transaction and processing fees for collecting installment payments.
16. Provide that during the term of an installment agreement that debt cannot be referred to the office of debt recovery or the attorney general for collection.
17. Make technical changes.