

ACT No. 397

2016 Regular Session

HOUSE BILL NO. 245

BY REPRESENTATIVES MARCELLE AND CARPENTER AND SENATOR COLOMB

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AN ACT

To amend and reenact R.S. 32:8(A)(3) and (B) and to enact R.S. 32:429.4 and R.S. 47:1676(L), relative to monies owed to the office of motor vehicles; to authorize the office of motor vehicles to enter into installment agreements with persons for payment of outstanding fines, penalties, and fees; to authorize the office of motor vehicles to register motor vehicles and issue driving privileges to persons during the term of such installment agreements; to authorize the promulgation of rules and regulations; to provide for definitions; to authorize third parties to administer such installment agreements; to authorize a third party to charge and collect certain fees for the administration of such installment agreements; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:8(A)(3) and (B) are hereby amended and reenacted and R.S. 32:429.4 is hereby enacted to read as follows:

§8. Final delinquent debt; office of motor vehicles

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

* * *

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

* * *

B. The office of motor vehicles shall refer ~~all~~ a final delinquent ~~debts~~ debt for which a debtor has not entered into an installment agreement for payment to the

1 office of debt recovery as provided in R.S. 47:1676. Final delinquent debt referrals
 2 shall include data and information in the required format necessary to institute
 3 collection procedures. All delinquent debts shall be authenticated by the office of
 4 motor vehicles prior to being referred to the office of debt recovery. Once the
 5 delinquent debt becomes final, and prior to referral to the office of debt recovery,
 6 the office of motor vehicles shall notify the debtor in writing that failure to pay the
 7 debt in full within sixty days shall subject the debt to the maximum amount owed
 8 together with the additional fee collected by the office of debt recovery provided for
 9 in R.S. 47:1676. Such notice shall also inform the debtor that he may qualify to pay
 10 sums due by installment agreement, if eligible, and shall include instructions on how
 11 to inquire with the office of motor vehicles to determine eligibility and terms.

12 * * *

13 §429.4. Installment agreement; outstanding penalties, fines, and fees owed to the
 14 office of motor vehicles

15 A. Installment agreements and eligibility. (1)(a) All outstanding penalties,
 16 fines, and fees owed to the Department of Public Safety and Corrections, office of
 17 motor vehicles, hereinafter referred to as the "office of motor vehicles", shall be paid
 18 no later than the date allowed by law. However, the office of motor vehicles shall
 19 enter into installment agreements, as authorized by this Section, with eligible persons
 20 for payment of their outstanding fines, penalties, and fees owed to the office of motor
 21 vehicles. All notices of any outstanding fines, penalties, and fees owed to the office
 22 of motor vehicles shall inform the debtor that he may qualify to pay sums due by
 23 installment agreement, if eligible, and shall include instructions on how to inquire
 24 with the office of motor vehicles to determine eligibility and terms.

25 (b) An installment agreement shall not be used to pay sales or use taxes or
 26 related penalties and interest, vehicle registration license taxes, or titling fees when
 27 submitting a transaction to title or register a motor vehicle. However, if the office
 28 of motor vehicles has previously sent a notice to the debtor that the payment made
 29 on a motor vehicle title or registration transaction was dishonored by a bank
 30 processing the transaction, the office of motor vehicles may accept an installment

1 agreement to collect that dishonored payment in addition to any outstanding fees,
2 penalties, or interest that may be added to the total due to the dishonored payment.

3 (2) A debtor who owes the office of motor vehicles two hundred fifty dollars
4 or more in outstanding fines, penalties, or fees, or any combination thereof, is
5 eligible to pay such amounts by means of an installment agreement with the office
6 of motor vehicles, should all of the following conditions be met:

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

9 (b) A request for an installment agreement is made as required by and within
10 the time provided for in the notice from the office of motor vehicles informing the
11 debtor of any outstanding fines, penalties, and fees owed to the office of motor
12 vehicles.

13 (3) Upon termination of an installment agreement executed pursuant to this
14 Section, all outstanding amounts due under the installment agreement shall be final
15 debt as defined by R.S. 32:8 or R.S. 47:1676. Any installment agreement entered
16 into pursuant to this Section shall constitute a waiver by the debtor of any right to
17 administrative or judicial review regarding sums due under an installment agreement.
18 Any notices provided to a debtor who enters into an installment agreement pursuant
19 to this Section shall constitute satisfaction of the notice requirements of R.S. 32:8
20 and R.S. 47:1676.

21 (4) Any installment agreement entered into by the office of motor vehicles
22 and a debtor shall be in writing and signed by both parties. The office of motor
23 vehicles shall develop an official form to be utilized for installment agreements
24 authorized by this Section. Installment agreements not on this form shall be invalid.

25 B. Installment agreement payment schedule. Any installment agreement
26 shall require a debtor to provide fixed and equal monthly payments in the following
27 amounts, with the first payment due upon the execution of the agreement:

28 (1) If the debtor owes two hundred fifty dollars, the debtor shall pay six
29 equal monthly installments.

1 (2) If the debtor owes from two hundred fifty-one dollars to seven hundred
2 fifty dollars, the debtor shall pay twelve equal monthly installments.

3 (3) If the debtor owes from seven hundred fifty-one dollars to one thousand
4 five hundred dollars, the debtor shall pay twenty-four equal monthly installments.

5 (4) If the debtor owes from one thousand five hundred one dollars to two
6 thousand five hundred dollars, the debtor shall pay thirty-six equal monthly
7 installments.

8 (5) If the debtor owes from two thousand five hundred one dollars to four
9 thousand nine hundred ninety-nine dollars, the debtor shall pay forty-eight equal
10 monthly installments.

11 (6) If the debtor owes five thousand or more, the debtor shall pay up to sixty
12 monthly installment payments. However, the commissioner of the office of motor
13 vehicles may grant longer payment terms for amounts of five thousand dollars or
14 more owed based on proof of income indicating a debtor's financial limitations to
15 pay within sixty months.

16 C. Payments. (1) All installment agreement payments shall be made
17 through an electronic automated transaction initiated by the office of motor vehicles
18 or a third party on behalf of the office of motor vehicles. Such installment agreement
19 payments may be made by bank draft, electronic funds transfer, or credit or debit
20 card, including but not limited to reloadable prepaid credit or debit cards. All
21 debtors shall provide necessary information for installment payments to be paid by
22 bank draft, electronic funds transfer, or credit or debit cards.

23 (2) The debtor shall be issued a statement or receipt indicating the amount
24 paid and the amount outstanding under the installment agreement each time an
25 installment agreement payment is made.

26 (3) Prepayment of sums due on an installment agreement may be made
27 without the imposition of a penalty.

28 D. Suspension of installment agreement. The commissioner of the office of
29 motor vehicles may suspend an installment agreement executed pursuant to this
30 Section for up to sixty days following a request by the debtor based upon good cause.

1 Good cause shall be determined by the commissioner. During the term of the
2 suspension of the installment agreement, no payments shall be accepted on the
3 installment agreement. Payments shall resume upon the day following the last day
4 of the suspension period. Any suspension of an installment agreement pursuant to
5 this Subsection shall extend the term of the installment agreement by the length of
6 any suspension. A debtor's driving privileges shall remain active during the
7 suspension period unless otherwise blocked, revoked, or suspended.

8 E. Termination of installment agreement upon failure to make payment. (1)

9 If any installment payment is not paid on or before the date fixed for its payment, the
10 entire amount unpaid pursuant to the installment agreement shall be paid by the
11 debtor within a sixty-day period from the date of notice and demand from the
12 commissioner of the office of motor vehicles. The notice shall further advise the
13 debtor that his driver's license shall be suspended upon the expiration of the sixty-
14 day period if the payments due pursuant to the installment agreement are not made
15 current within that sixty-day period or the agreement is not reinstated by the
16 commissioner of the office of motor vehicles within that sixty-day period. This
17 notice shall be known as "Notice of Installment Agreement Termination and
18 Demand".

19 (2) The Notice of Installment Agreement Termination and Demand shall
20 satisfy all notice requirements of R.S. 32:8 and R.S. 47:1676. In the event an
21 installment agreement includes payment of delinquent or final debt as defined by
22 R.S. 32:8, such notice shall include all information required by R.S. 32:8. In the
23 event that an installment agreement includes payment of delinquent or final debt as
24 defined by R.S. 47:1676, such notice shall include all information required by R.S.
25 47:1676. The notice required by this Paragraph shall satisfy the notice requirements
26 of R.S. 32:8 and R.S. 47:1676.

27 (3) Upon request of the debtor within the sixty-day period from the date of
28 the notice and demand required in Paragraph (1) of this Subsection and approval of
29 the commissioner of the office of motor vehicles, the office of motor vehicles may
30 reinstate the installment agreement after payment of the missed installment.

1 (4) If no request for reinstatement of an installment agreement is made
2 within sixty days of the notice and demand required by Paragraph (1) of this
3 Subsection, or if the commissioner of the office of motor vehicles rejects a request
4 to reinstate an installment agreement, the installment agreement shall be terminated
5 and any remaining sums due under the installment agreement shall be delinquent and
6 final debt as defined by R.S. 32:8 or R.S. 47:1676 for which the following shall
7 apply:

8 (a) For sums due which are not debt as defined by R.S. 32:8, the office of
9 motor vehicles may refer any unpaid balance due under the installment agreement
10 for collection by the appropriate office pursuant to R.S. 47:1676 and this Section.

11 (b) For sums due which are debt as defined by R.S. 32:8, the office of motor
12 vehicles shall refer any unpaid balance due under the installment agreement to the
13 Department of Revenue, office of debt recovery, for collection as provided in R.S.
14 32:8 and R.S. 47:1676.

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

22 (2) If a debtor fails to timely make an installment payment and no request
23 for reinstatement of the installment agreement is made following the commissioner's
24 sending the Notice of Installment Agreement Termination and Demand, or the
25 commissioner of the office of motor vehicles rejects a request to reinstate an
26 installment agreement, the debtor's driving privileges and motor vehicle or truck
27 registration privileges shall be suspended. The provisions of R.S. 32:414 shall apply
28 with regard to judicial review of the suspension and reinstatement of the suspension.

29 G. Administration of installment agreements. (1) The Department of Public
30 Safety and Corrections, public safety services, may authorize a third party, including

1 but not limited to the Department of Revenue, office of debt recovery, to administer
 2 installment agreements executed pursuant to this Section. Such authorized third
 3 party may collect payments due pursuant to installment agreements executed
 4 pursuant to this Section. Any such authorized third party shall be an authorized
 5 agent of the Department of Public Safety and Corrections, public safety services, and
 6 may collect the following fees for each transaction completed pursuant to this
 7 Section:

8 (a) A fee not to exceed three dollars for each payment made pursuant to an
 9 installment agreement.

10 (b) Fees authorized by R.S. 40:1322.

11 (c) Fees authorized pursuant to R.S. 49:316.1.

12 (2) The provisions of R.S. 47:1576.2 shall not apply to services provided by
 13 the Department of Revenue, office of debt recovery, pursuant to this Subsection.

14 (3) For purposes of this Section, the office of motor vehicles and the office
 15 of debt recovery shall not be considered a collection agency as defined in R.S.
 16 9:3534.1.

17 H. The office of motor vehicles and the Department of Revenue, office of
 18 debt recovery, may adopt rules and regulations in accordance with the
 19 Administrative Procedure Act to implement the provisions of this Section.

20 Section 2. R.S. 47:1676(L) is hereby enacted to read as follows:

21 §1676. Debt recovery

22 * * *

23 L.(1) The terms "delinquent debt" and "final debt" as defined in this Section
 24 shall not apply to "debt" defined by R.S. 32:8(A)(1). For purposes of this Section,
 25 the terms "delinquent debt" and "final debt" as defined in R.S. 32:8 shall apply to
 26 "debt" defined by R.S. 32:8(A)(1).

27 (2) Debt, whether defined by R.S. 32:8(A)(1) or this Section, owed to the
 28 Department of Public Safety and Corrections, office of motor vehicles, which
 29 becomes delinquent debt, final debt, or final delinquent debt after the effective date
 30 of the Act which originated as House Bill No. 245 of the 2016 Regular Session of

1 the Legislature and for which a debtor enters into an installment agreement with the
 2 office of motor vehicles to pay shall not be referred to the office of debt recovery or
 3 the office of the attorney general during the term of any such installment agreement.

4 Section 3. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____