

Regular Session, 2010

HOUSE BILL NO. 398

BY REPRESENTATIVE LANDRY

ATTORNEYS/FEES: Provides relative to the award of reasonable attorney fees in judgments on open accounts

1 AN ACT

2 To amend and reenact R.S. 9:2781(E) and to enact R.S. 9:2781(F), relative to suits on open  
3 accounts; to provide for the award of reasonable attorney fees in certain  
4 circumstances; to provide for definitions; to provide procedures for obtaining a  
5 judgment for attorney fees; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2781(E) is hereby amended and reenacted and R.S. 9:2781(F) is  
8 hereby enacted to read as follows:

9 §2781. Open accounts; attorney fees; professional fees; open account owed to the  
10 state

11 \* \* \*

12 E. As used in this Section; the following terms shall have the following  
13 meanings:

14 (1) ~~"person"~~ "Person" means natural and juridical persons.

15 (2) "Reasonable attorney fees" means attorney fees incurred before judgment  
16 and after judgment if the judgment creditor is required to enforce the judgment  
17 through a writ of fieri facias, writ of seizure and sale, judgment debtor examination,  
18 garnishment, or other post-judgment judicial process.

19 F. If the judgment creditor incurs attorney fees after judgment on the  
20 principal demand associated with enforcement of the judgment, the judgment

1        creditor may obtain judgment for those attorney fees and additional court costs by  
2        filing a rule to show cause along with an affidavit from counsel for the judgment  
3        creditor setting forth the attorney fees incurred. If the judgment debtor does not file  
4        with the court a memorandum in opposition at least eight days prior to the hearing  
5        on the rule, the court may award the attorney fees and court costs as prayed for  
6        without the necessity of an appearance in court by counsel for the judgment creditor.  
7        The amount of any post-judgment award of attorney fees and costs shall be added to  
8        the total to be recovered on the principal demand through any existing writ or  
9        garnishment proceedings.

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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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Landry

HB No. 398

**Abstract:** Provides that reasonable attorney fees incurred in the collection of an open account include attorney fees incurred in post-judgment judicial process efforts required to enforce the judgment.

Present law provides that when any person fails to pay an open account within 30 days after the claimant sends written demand, that person shall be liable to the claimant for reasonable attorney fees for the prosecution and collection of the claim.

Proposed law provides that "reasonable attorney fees" means attorney fees incurred before judgment and after judgment if the judgment creditor is required to enforce the judgment through a writ of fieri facias, writ of seizure and sale, judgment debtor examination, or other post-judgment judicial process.

Proposed law provides that if the judgment creditor incurs attorney fees after judgment on the principal demand, the judgment creditor may obtain a judgment for those attorney fees which shall be added to the total to be recovered on the principal demand. Proposed law provides for procedures for obtaining such judgment.

(Amends R.S. 9:2781(E); Adds R.S. 9:2781(F))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added procedures for obtaining a separate judgment for attorney fees incurred subsequent to obtaining judgment on the principal demand.