

NOTICE OF INTENT

Department of Revenue Policy Services Division

Office of Debt Recovery
(LAC 61:III.3101)

Under the authority of R.S. 47:1511 and 1676, and in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to propose to adopt LAC 61:III.3101.

Louisiana Revised Statutes 47:1676(C)(2)(a) provides that agencies that do not have a collection contract with the Attorney General's Office for the collection of delinquent debts shall refer all final delinquent debt to the Office of Debt Recovery ("Office") for collection. Referring agencies must include data and information in the required format necessary to institute collection procedures. All delinquent debts shall be authenticated by the referring agency or officer prior to being referred to the Office. Once the debt becomes final, and prior to referral to the Office, the referring agency shall notify the debtor that failure to pay the debt in full within sixty days shall subject the debt to the Office's collection fee. The Office's collection fee is in addition to the collection fees already included in the delinquent debt by the referring agency. Louisiana Revised Statutes 47:1676(E) mandates that the Office charge the debtor a fee not to exceed twenty-five percent (25%) of the total liability of the final debt. The fee is to be set by rule. Debtors whose final delinquent debt has been referred to the Office on or after January 1, 2024 will be assessed a fee equal to fifteen percent (15%) of the final delinquent debt.

Title 61 REVENUE AND TAXATION Part III. Administrative and Miscellaneous Provisions Chapter 31. Office of Debt Recovery

§3101. Collection Fee

A. Pursuant to R.S. 47:1676(E), the Office of Debt Recovery shall charge a fee on debts referred to it for collection. The fee shall not exceed twenty-five percent of the total liability and is to be established by rule.

B. A collection fee equal to fifteen percent of the total liability of debt shall be due on all debts referred to the Office of Debt Recovery on or after January 1, 2024. This collection fee shall be retained by the Office of Debt Recovery and distributed in accordance with R.S. 47:1676(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:1676.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 49

Family Impact Statement

The proposed adoption of this rule might have a slight positive impact on family as defined by R.S. 49:972(D) or on family formation, stability and autonomy as the additional collection fee will be limited to fifteen percent of the total liability of debt, which is less than the maximum twenty-five percent that is provided for in R.S. 47:1676(E). The proposed adoption should have no other known or foreseeable impact on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Impact Analysis

The proposed rule has no known or foreseeable measurable impact on small businesses as described in R.S. 49:974.4.

Provider Impact Statement

The proposed rule has no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Shanda J. McClain, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., August 25, 2023.

Public Hearing

A public hearing will be held on August 28, 2023 at 10 a.m. in the Calcasieu Room located on the 2nd floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kevin J. Richard, CPA
Secretary of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULE RULE TITLE: Voluntary Disclosure Agreements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will increase state costs by approximately \$100,000 SGR in FY24 for IT related expenses. Current law provides that agencies that do not have a collection contract with the Attorney General's Office shall refer all final delinquent debt to the Office of Debt Recovery (Office) for collection. To cover the costs of collection the statute mandates the assessment of a fee not to exceed 25% of the final debt. The proposed rule establishes that the fee to be assessed will be 15% of the final debt, which is a decrease from the current fee of 25%.

The agency currently has sufficient funds to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Per the fiscal note on HB 422 of the 2023 Regular Session, the proposed rule is estimated to decrease revenue collections in the Office by an estimate of \$4 M in FY24 and continue to decrease self-generated funds in the subsequent fiscal years by an indeterminable amount.

Because the Department of Revenue reverts excess self-generated revenues, the reduction in the fee from 25% to 15% is anticipated to decrease the amount of the state general fund in FY 24 by a corresponding amount. However, the Office intends to recover some of the funds by increasing the base of collections by adding other agencies to those for whom debts are to be collected and offering new additional payment methods for debts, including the use of credit cards. This may mitigate a portion or all of the fee decrease.

During FY22, the Office collected \$53.4 million of debt owed to state agencies and local governments, which included self-generated revenue of \$9.9 million in fees. Changing the collection fee from 25% to 15% will result in a reduction in self-generated funds by an indeterminable amount. However, for illustration purposes, if the maximum fee in FY22 were reduced from 25% to 15%, self-generated funds would decrease from \$9.9 million to \$6.0 million.

The amount of fees collected is dependent upon the amount of debts collected and this fluctuates with the existing economic impacts to the debtor. An estimate based on a flat growth is used for FY24 to arrive at a \$4 M reduction in self-generated revenues. The reduction in the amount of the fee will reduce the Office's self-generated revenue, while still providing a sufficient amount for operation of the Office.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Persons indebted to state agencies and local governments will be directly affected by the proposed action. The final amount owed by referred debtors will decrease by a corresponding amount of the fee reduction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated or foreseen impact on competition or employment.

Kevin J. Richard, CPA
Secretary of Revenue

Alan Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office