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HOUSE BILL NO. 2037

Offered January 14, 2009

Prefiled January 13, 2009

A *BILL to amend and reenact §§ 2.2-518, 2.2-4023, 2.2-4805, 2.2-4806, 8.01-220.2, 8.01-382, and 17.1-276 of the Code of Virginia, relating to collection of debt owed the Commonwealth.*

Patrons—Iaquinto, Athey and Rust

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-518, 2.2-4023, 2.2-4805, 2.2-4806, 8.01-220.2, 8.01-382, and 17.1-276 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-518. Division of Debt Collection.

A. There is created in the Department of Law a Division of Debt Collection that shall provide all legal services and advice related to the collection of funds owed to the Commonwealth, pursuant to § 2.2-507 and the Virginia Debt Collection Act (§ 2.2-4800 et seq.).

The Attorney General may appoint and fix the salaries of such attorneys and employees as may be necessary to carry out the functions of the Division, within the amounts appropriated to the Division, and may supplement such funds from appropriations made to his office for the provision of legal services to the Commonwealth.

The Division may retain as special revenue up to 30 percent of receivables collected on behalf of state agencies and may contract with private collection agents for the collection of debts amounting to less than \$15,000, as provided in the appropriation act.

B. *There is hereby created on the books of the Comptroller a special, nonreverting fund to be known as the Debt Collection Recovery Fund (Fund). The Division shall deposit to the Fund all revenues generated by it, less any cost of recovery, from receivables collected on behalf of state agencies, pursuant to §§ 2.2-4805 and 2.2-4806. The Division shall transfer the remaining funds to the appropriate state agencies on a periodic basis.*

C. *Any direct payment received by an agency on an account that has been referred for collection to the Division shall be reported to the Division upon receipt by the agency. The agency shall cause the fees due the Division for obtaining the recovery to be reported to and paid to the Division. The remaining portion of the direct payment shall be retained by the agency.*

§ 2.2-4023. Final orders.

The terms of any final agency case decision, as signed by it, shall be served upon the named parties by mail unless service otherwise made is duly acknowledged by them in writing. The signed originals shall remain in the custody of the agency as public records subject to judicial notice by all courts and agencies; and they, or facsimiles thereof, together with the full record or file in every case shall be made available for public inspection or copying except (i) so far as the agency may withhold the same in whole or part for the purpose of protecting individuals mentioned from personal embarrassment, obloquy, or disclosures of a private nature including statements respecting the physical, mental, moral, or financial condition of such individuals or (ii) for trade secrets or, so far as protected by other laws, other commercial or industrial information imparted in confidence. *Final orders may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the agency head or his designee.*

§ 2.2-4805. Interest, administrative charges and penalty fees.

A. Each state agency and institution may charge interest, *attorney's fees, and collection fees* on all past due accounts receivable in accordance with guidelines adopted by the Department of Accounts ~~and at the underpayment rate prescribed in § 58.1-15.~~ Each past due accounts receivable may also be charged an additional amount that shall approximate the administrative costs, excluding attorneys' fees not authorized by contract, arising under § 2.2-4806. Agencies and institutions may also assess late penalty fees, not in excess of ten percent of the past-due account on past-due accounts receivable. The Department of Accounts shall adopt regulations concerning the imposition of administrative charges and late penalty fees.

B. *Failure to pay in full at the time goods, services, or treatment are rendered by the Commonwealth or when billed for a debt owed to any agency of the Commonwealth will result in the imposition of interest at the judgment rate as provided in § 6.1-330.54 on the unpaid balance. Returned checks or dishonored credit card or debit card payments will incur a handling fee of \$35 to be added to the principal account balance. If the matter is referred for collection to an attorney or to a collection*

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59 agency, the debtor will be liable for either attorney's fees of 25 percent if the matter is referred to an
60 attorney or collection fees of 25 percent if the matter is referred to a collection agency, of the then
61 unpaid balance, unless a higher interest, attorney's fees, or collection fees amount is authorized by
62 contract with the debtor. A request for or acceptance of goods or services from the Commonwealth,
63 including medical treatment, will be deemed to be acceptance of these terms.

64 § 2.2-4806. Utilization of certain collection techniques.

65 A. Each state agency and institution shall take all appropriate and cost-effective actions to
66 aggressively collect its accounts receivable. Each agency and institution shall utilize, but not be limited
67 to, the following collection techniques, according to the policies and procedures required by the
68 Department of Accounts and the Attorney General: (i) credit reporting bureaus, (ii) collection agencies,
69 (iii) garnishments, liens and judgments, (iv) administrative offset, and (v) participation in the Treasury
70 Offset Program of the United States under 31 U.S.C. § 3716.

71 B. Except as provided otherwise herein, for collection of accounts receivable of \$3,000 or more that
72 are 60 days past due, each agency and institution shall forward those claims to the Office of Attorney
73 General, Division of Debt Collection for collection. The Attorney General shall review forwarded
74 accounts, determine the appropriate collection efforts, if any, for each account, and take such actions on
75 the accounts as he may so determine.

76 C. Except as provided otherwise herein, for collection of accounts receivable under \$3,000 that are
77 60 days past due, each agency and institution shall contract with a private collection agency for the
78 collection of those debts. Prior to referring accounts receivable of less than \$3,000, agencies and
79 institutions may refer such accounts to the Office of Attorney General, Division of Debt Collection. The
80 Attorney General may accept the account for collection or return it to the agency or institution for
81 collection by a private collection agency.

82 D. Where an agency or institution has procedures to secure payment, or the debtor is paying a debt
83 in periodic payments satisfactory to the agency or institution, it may elect to retain the claim in excess
84 of 60 days, provided that such periodic payments are promptly paid until the account is satisfied. In the
85 event the debtor is delinquent by 60 days in paying a periodic payment the account shall be handled in
86 the manner provided by subsection C.

87 *Each state agency and institution shall make deposits to the Debt Collection Recovery Fund and*
88 *report to the Office of the Attorney General, Division of Debt Collection as required by subsection B of*
89 *§ 2.2-518.*

90 § 8.01-220.2. Spousal liability for emergency medical care.

91 ~~On and after July 1, 1984, each~~ Each spouse shall be jointly and severally liable for all emergency
92 medical care furnished to the other spouse by a physician licensed to practice medicine in the
93 Commonwealth, or by a hospital located in the Commonwealth, ~~including all follow-up inpatient care~~
94 ~~provided during the initial emergency admission to any such hospital,~~ which is furnished while the
95 spouses are living together. For the purposes of this section, emergency medical care shall mean any
96 care the attending physician or other health care professional deems necessary to preserve the patient's
97 life or health and which, if not rendered timely, can be reasonably anticipated to adversely affect the
98 patient's recovery or imperil his life or health.

99 § 8.01-382. Verdict, judgment or decree to fix period at which interest begins; final order; judgment
100 or decree for interest.

101 In any Administrative Process Act (§ 2.2-4000 et seq.) action or action at law or suit in equity, the
102 final order, verdict of the jury, or if no jury the judgment or decree of the court, may provide for
103 interest on any principal sum awarded, or any part thereof, and fix the period at which the interest shall
104 commence. The final order, judgment or decree entered shall provide for such interest until such
105 principal sum be paid. If a final order, judgment or decree be rendered which does not provide for
106 interest, the final order, judgment or decree awarded or jury verdict shall bear interest at the judgment
107 rate of interest as provided for in § 6.1-330.54 from its date of entry or from the date that the jury
108 verdict was rendered. Notwithstanding the provisions of this section, any judgment entered for a sum
109 due under a negotiable instrument, as defined by § 8.3A-104, shall provide for interest on the principal
110 sum in accordance with § 8.3A-112 at the rate specified in the instrument. If no such rate is specified,
111 interest on the principal sum shall be at the judgment rate provided in § 6.1-330.54. *Final orders may be*
112 *recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such*
113 *orders by the agency head or his designee.*

114 § 17.1-276. Fee allowed for providing secure remote access to land records.

115 A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294
116 may charge a fee established by the clerk to cover the operational expenses of such electronic access,
117 including, but not limited to, computer support, maintenance, enhancements, upgrades, replacements, and
118 consulting services. A flat fee may be assessed for each subscriber, as defined in § 17.1-295, in an
119 amount not to exceed \$50 per month. The fee shall be paid to the clerk's office and deposited by the
120 clerk into a special nonreverting local fund to be used to cover operational expenses of such electronic

121 access, as defined herein. The circuit court clerk shall enter into an agreement with each person whom
 122 the clerk authorizes to have remote access, in accordance with the security standards established by the
 123 Virginia Information Technologies Agency.

124 *The Department of Law Division of Debt Collection shall be exempt from paying any fee for remote*
 125 *access to land records. If any clerk contracts with an outside vendor to provide remote access to land*
 126 *records to subscribers, such contract shall contain a provision exempting the Department of Law*
 127 *Division of Debt Collection from paying any access or subscription fee.*

128 **2. That the provisions of this act amending § 17.1-276 of the Code of Virginia shall not void any**
 129 **contractual provision in existence prior to July 1, 2009. The provisions of this act amending**
 130 **§ 17.1-276 shall apply to all contracts entered into or renewed on or after July 1, 2009.**