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SENATE BILL NO. 660

Offered January 17, 2014

A BILL to amend and reenact §§ 2.2-518 and 2.2-4806 of the Code of Virginia, relating to the Office of the Attorney General; Virginia Fraud Against Taxpayers Act; funds recovered.

Patron—Edwards

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-518 and 2.2-4806 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.) and to the recovery of certain funds pursuant to the Virginia Fraud Against Taxpayers Act (FATA) (§ 8.01-216.1 et seq.) by the Commonwealth, as defined by § 8.01-216.2.

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.

The Division may also retain as special revenue 30 percent of any funds recovered on behalf of the Commonwealth pursuant to FATA as well as any separate attorney fees awarded to the Commonwealth pursuant to FATA.

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 or such other period of time approved by the Division.

C. There is hereby created on the books of the Comptroller a special, nonreverting, revolving fund to be known as the Fraud Recovery Fund (FATA Fund). The Division shall deposit to the FATA Fund all revenues generated by it, including 30 percent of any funds recovered as well as any separate attorney fees awarded to the Commonwealth pursuant to FATA that shall be retained by the Division as operating funds except as provided in subsection D. The Division shall transfer the remaining funds to the appropriate state agencies and political subdivisions on a periodic basis or such other period of time approved by the Division.

D. The provisions of this section shall not apply to any investigations, litigation, or recoveries related to matters handled under the authority granted to the Medicaid Fraud Control Unit within the Department of Law pursuant to the provisions of 42 C.F.R. § 1007 et seq. All matters pertaining to collection of Medicaid funds, including damages, fines, and penalties, received pursuant to FATA are specifically excluded from the provisions of this section.

E. 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; however, no fees shall be paid to the Division on payments to the agency resulting from the agency's participation in the Setoff Debt Collection Act, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1. The remaining portion of the direct payment shall be retained by the agency.

§ 2.2-4806. Utilization of certain collection techniques.

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

B. Except as provided otherwise herein, for collection of accounts receivable of \$3,000 or more that are 60 days past due, each agency and institution shall forward those claims to the Division for

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59 collection. The Division shall review forwarded accounts, determine the appropriate collection efforts, if
60 any, for each account, and take such actions on the accounts as the Division may so determine.

61 C. Except as provided otherwise herein, for collection of accounts receivable under \$3,000 that are
62 60 days past due, each agency and institution shall contract with a private collection agency for the
63 collection of those debts. Prior to referring accounts receivable of less than \$3,000, agencies and
64 institutions may refer such accounts to the Division. The Division may accept the account for collection
65 or return it to the agency or institution for collection by a private collection agency.

66 D. Except as otherwise provided in this subsection, where a debtor is paying a debt in periodic
67 payments to an agency or institution, the agency or institution may elect to retain the claim in excess of
68 60 days provided that such periodic payments are promptly paid until the account is satisfied. In the
69 event the debtor is delinquent (i) by 60 days in paying a periodic payment or (ii) for such other period
70 of time approved by the Division, the account shall be handled in the manner provided by subsections B
71 and C of this section.

72 E. Each state agency and institution shall report and pay required fees to the Division as required by
73 subsection *E* of § 2.2-518.