SLS 22RS-437 ORIGINAL

2022 Regular Session

SENATE BILL NO. 241

BY SENATOR ALLAIN

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TAX/TAXATION. Provides for alternatives in lieu of payment under protest for certain ad valorem taxes. (8/1/22)

AN ACT

2	To enact R.S. 47:1989(G) and 2134(F), relative to security required for challenging the
3	correctness or legality of ad valorem tax assessments; to provide that a payment
4	under protest is not required to appeal the correctness of an assessment to the
5	Louisiana Tax Commission; to provide for the posting of a bond or other security in
6	lieu of a payment under protest for challenges to the legality of an assessment; and
7	to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 47:1989(G) and 2134(F) are hereby enacted to read as follows:
10	§1989. Review of appeals by tax commission
11	* * *
12	G. A taxpayer challenging the correctness of an assessment who has
13	timely filed an appeal with the Louisiana Tax Commission is not required to
14	make a payment under protest of the disputed amount of tax in order for the
15	appeal to be considered by the tax commission.
16	* * *
17	§2134. Suits to recover taxes paid under protest

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remedy requires n	aking a paymen	t under protest	pursuant to Subsection
this Section may in	the alternative c	omply with the	provisions of this Subs
rather than makin	g a payment und	der protest.	
(2)(a) The t	axpayer may file	with the court	or the Board of Tax A

(2)(a) The taxpayer may file with the court or the Board of Tax Appeals
a rule to set bond or other security, which shall be set for hearing within thirty
days of the filing of the rule to set bond or other security, and shall attach to the
petition evidence of the taxpayer's ability to post bond or other security.

- (b) The term "other security" as set forth in this Subsection shall include but not be limited to a pledge, collateral assignment, lien, mortgage, factoring of accounts receivable, or other encumbrance of assets.
- (3) The court or the Board of Tax Appeals may either order the posting of commercial bond or other security in an amount determined by the court or the board to be reasonable security for the amount of unpaid taxes, interest, and penalties demanded in the assessment or may order the taxpayer to make a payment under protest in an amount determined in its discretion to be reasonable security considering the amount of unpaid taxes, interest, and penalties. The court or board may order that a portion of the unpaid taxes, interest, and penalties be paid under protest and the balance secured by the posting of a bond or other security as provided in this Subsection.
- (4) The posting of a bond or other security or the payment under protest shall be made no later than thirty days after the mailing of the notice of the decision of the court or the Board of Tax Appeals authorizing the posting of bond or other security or requiring that a payment under protest be made.
- (5) If the taxpayer timely files the suit or any petition or rule referred to in this Subsection, no collection action shall be taken in connection with the assessment of taxes, interest, and penalties that are the subject of the taxpayer's cause of action, unless the taxpayer fails to post bond or other security or make

1 the payment under protest required by the court or board. The collector shall 2 be permitted to file a reconventional demand against the taxpayer in the cause 3 of action. A collector may procure an appraisal or conduct discovery concerning the value and validity of security offered prior to the date for filing the 5 collector's response or opposition to a rule set for hearing under this Subsection. (6) To the extent not inconsistent with this Subsection, the nature and 7 amount of the bond or security and the procedures for posting bond or 8 providing other security shall be consistent with the provisions for providing 9 security in connection with a suspensive appeal under the Code of Civil 10 Procedure.

> The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

DIGEST 2022 Regular Session

Allain

SB 241 Original

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Present law requires the payment under protest of the disputed amount of tax when a taxpayer challenges the correctness of an ad valorem tax assessment or the legality of an ad valorem tax assessment.

Proposed law provides that payment under protest is not required to file an appeal with the Louisiana Tax Commission regarding the correctness of an assessment.

Proposed law provides for an alternative method of providing security in lieu of a payment under protest in the case of a taxpayer filing a legality challenge with a court or the Board of Tax Appeals.

Proposed law authorizes the taxpayer to file a rule to set bond or other security with the court or the board which shall be set for hearing within 30 days.

Proposed law authorizes the court or the board to order that a portion of the disputed amount be paid under protest and the balance secured by the posting of a bond or other security.

Proposed law authorizes the collector to file a reconventional demand against the taxpayer in the cause of action in which a bond or alternative security is provided and further provides that the collector may procure an appraisal or conduct discovery concerning the value and validity of security offered.

Proposed law requires that the posting of a bond or other security for ad valorem tax challenges shall be consistent with the provisions for providing security in connection with a suspensive appeal under the Code of Civil Procedure.

Effective August 1, 2022.

(Adds R.S. 47:1989(G) and 2134(F))