

First Extraordinary Session, 2005

HOUSE BILL NO. 37

BY REPRESENTATIVE ARNOLD AND SENATOR MURRAY

TAX/AD VALOREM TAX: Establishes certain procedures in the event of public calamity or disaster for the assessment of damaged property, the deferment of tax payments, and the extension of the homestead exemption (Item #40)

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AN ACT

To amend and reenact R.S. 47:1978 and to enact R.S. 47:1703(E), 1989.2, and 1992.1, relative to ad valorem taxation; to provide for an extension of the homestead exemption when property is damaged by public calamity or disaster; to provide for the listing and assessing of property damaged by public calamity or disaster; to provide for review of appeals by the Louisiana Tax Commission of property assessed as a result of a public calamity or disaster; to provide relative to the inspection of assessment lists compiled as a result of a public calamity or disaster; to provide relative to notification and review of assessments by board of review as a result of such listing; to provide relative to hearing officers; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:1978 is hereby amended and reenacted and R.S. 47:1703(E), 1989.2, and 1992.1 are hereby enacted to read as follows:

§1703. Exemptions

* * *

E. Public disaster. (1) Any taxpayer entitled to the homestead exemption set forth in Article VII, Section 20 of the Constitution of Louisiana who is unable to occupy the homestead on or before December thirty-first of the calendar year due to

1 overflow, flood, or damage by rain, wind, hurricane, tornado, or other public
2 calamity, general conflagration, or disaster as defined in the Louisiana Homeland
3 Security and Emergency Assistance and Disaster Act shall be entitled to claim the
4 exemption by filing an affidavit of intent to return and reoccupy the homestead
5 within five years from December thirty-first of the year following the disaster with
6 the assessor within the parish where such homestead is situated prior to December
7 thirty-first of the year in which the exemption is claimed. In no event shall more
8 than one homestead exemption extend or apply to any person in this state.

9 (2) Any taxpayer entitled to the special assessment level set forth in Article
10 VII, Section 18(G) of the Constitution of Louisiana who is unable to occupy the
11 homestead on or before December thirty-first of the calendar year due to overflow,
12 flood, or damage by rain, wind, hurricane, tornado, or other public calamity, general
13 conflagration, or disaster as defined in the Louisiana Homeland Security and
14 Emergency Assistance and Disaster Act shall be entitled to keep the special
15 assessment level of the damaged homestead on the repaired or rebuilt homestead
16 provided the repaired or rebuilt homestead is reoccupied by the owner within five
17 years from December thirty-first of the year following the disaster. The assessed
18 value of the land and buildings on which the homestead was located prior to its
19 damage shall not be increased above its assessed value immediately prior to the
20 public disaster described in this Paragraph so long as the owner intends to reoccupy
21 the homestead within five years as set forth above. If the property owner applies for
22 and receives the special assessment level on another homestead during the same five-
23 year period, the damaged property shall not be entitled to keep the special assessment
24 level, and the land and buildings shall be assessed in that year at the percentage of
25 fair market value set forth in the constitution.

* * *

1 §1978. Listing and assessing of ~~overflowed lands~~ property damaged by public
2 calamity or disaster

3 A. Whenever lands or other property, including buildings, structures, or
4 personal property, are overflowed or by the waters of the Mississippi River, or by the
5 waters of any other river, lake, bayou, or backwater, flooded by water or are
6 damaged by rain, wind, hurricane, tornado, or other public calamity, general
7 conflagration, or a disaster as defined in the Louisiana Homeland Security and
8 Emergency Assistance and Disaster Act, the assessors within whose parishes such
9 lands or other property may be situated, shall re-assess assess such lands or property
10 for their actual cash value, and in so doing they shall specially take the year in which
11 the damage has occurred at the percentage of fair market value provided in the
12 constitution, by taking into consideration all the damages to the lands or other
13 property and the depreciation of the value of such land or other property caused by
14 the overflow any of the events described in this Section. The assessors throughout
15 the state shall make these reassessments assessments whether the time fixed by law
16 for filing assessment rolls has elapsed or not, , and in case of re-assessments, as
17 provided by this Section; When such assessments are done, the assessments shall be
18 subject to review and shall be filed by the assessor as set forth in R.S. 47:1989.2 and
19 1992.1. In the alternative, the assessor shall prepare supplemental rolls of
20 overflowed or flooded lands and other overflowed or other property damaged as the
21 result of the events described in this Section, which they shall file in the manner
22 provided by law for general assessment rolls; such re-assessment shall be subject to
23 the same rights as to contest as to assessment generally rolls shall be subject to
24 review and shall be filed by the assessor as set forth in R.S. 47:1989.2 and 1992.1.

25 B. In the instance wherein the assessor has completed the public exposure
26 and board of review of the assessment roll for the year, the assessor may issue
27 change orders for the assessment of the damaged property in compliance with
28 Subsection A of this Section in lieu of changing his existing assessment roll or the
29 filing of a supplemental roll. If the assessor does issue a change order as a result of

1 the disaster described in Subsection A of this Section, such change order shall be
2 signed by the assessor or his deputy and the property owner or owners and shall
3 contain a declaration that the property owner or owners agree to the change in
4 assessment and that the property owner or owners waive any further contest as to the
5 accuracy of the assessment. In the event the change order is not signed by the
6 property owner or owners, the owner or owners shall have ten days from the receipt
7 of the tax bill evidencing the change in assessment to contest the assessment with the
8 assessor. If the taxpayer is dissatisfied with the determination of the assessor, the
9 taxpayer shall have ten days from notification of the determination by the assessor
10 to contest the assessment before the Louisiana Tax Commission and, if dissatisfied
11 with the ruling of the commission, shall have ten days to file suit in a court of
12 competent jurisdiction to contest the accuracy of the assessment. The assessment
13 provided for in this Section shall not be considered an implementation of the
14 reappraisal and valuation provisions of Article VII, Section 18, Paragraph (F) of the
15 constitution, nor shall such assessment result in the adjustment of ad valorem tax
16 millages pursuant to Article VII, Section 23 of the constitution.

* * *

18 §1989.2. Review of appeals by tax commission of property assessed as a result of

19 R.S. 47:1978(A)

20 A. When assessments are done as the result of R.S. 47:1978(A), the
21 assessment lists of the parish or district shall be subject to review as set forth in this
22 Section.

23 B. Within seven days of receipt of the assessment lists as certified by the
24 local board of review, the tax commission shall conduct public hearings to hear real
25 and personal property appeals of taxpayers, bona fide representatives of an affected
26 tax-recipient body, or assessors, from the action of the board of review.

27 C. The Louisiana Tax Commission shall consider the appeal of any taxpayer,
28 bona fide representative of an affected tax-recipient body, or assessor dissatisfied
29 with the determination of a local board of review. All documents, except

1 confidential forms as provided in R.S. 47:2327, filed in connection with any appeal
2 shall be available for public inspection during the regular business hours of the
3 Louisiana Tax Commission.

4 D. All such hearings shall be conducted in accordance with rules and
5 regulations established by the Louisiana Tax Commission.

6 E.(1) All decisions by the tax commission are final unless appealed to the
7 district court within seven days.

8 (2) The proceedings in such suit shall be tried by preference, whether or not
9 out of term time, at such time as fixed by the district court. No new trial or rehearing
10 shall be allowed.

11 (3) Any appeal from a judgment of the district court shall be heard by
12 preference within thirty days of the lodging of the record in the court of appeal. The
13 appeal shall be taken ten days from the date the judgment of the district court is
14 rendered. If such appeal is timely filed, any amount of taxes that were paid under
15 protest pursuant to R.S. 47:1856(E) shall remain segregated and invested pursuant
16 to that Subsection and no bond or other security shall be necessary to perfect such
17 appeal.

18 (4) In the event the supreme court grants a writ of certiorari, the court shall
19 hear the appeal on the next regular docket of the court.

20 F. The assessment lists, together with any changes in connection therewith,
21 shall be certified and returned to each assessor no later than ten days following the
22 conclusion of the public hearing held by the Louisiana Tax Commission.

23 * * *

24 §1992.1. Inspection of assessment lists compiled as a result of R.S. 47:1978(A);
25 notification and review of assessments by board of review as a result of such
26 listing; hearing officers

27 A.(1) After each assessor has prepared and made up the lists showing the
28 assessment of immovable and movable property in and for his parish or district as
29 a result of R.S. 47:1978(A), his lists shall be exposed daily for inspection by the

1 taxpayers and other interested persons for the period provided for in Subsection F of
2 this Section. Each assessor shall give notice of such exposure for inspection in the
3 official journal of the parish in which the assessor is located no more than fourteen
4 days and no less than seven days prior to the first day the lists will be open for public
5 inspection.

6 B. After the lists of each assessor have been exposed for inspection for the
7 period provided for in Subsection F of this Section, the lists as changed by each
8 assessor shall be certified to the board of review within three days, which board shall
9 conduct public hearings for all persons or their representatives desiring to be heard
10 on the assessments of immovable and movable property. Notice of such public
11 hearings shall be given by each assessor in the official journal of the parish in which
12 the assessor is located no more than fourteen days and no less than seven days prior
13 to the first day that the board of review shall convene.

14 C. The board of review shall consider the written or oral complaint of any
15 person desiring to be heard who has timely filed the report or reports as required by
16 Chapter 6 of Subtitle III of this Title, R.S. 47:2301 et seq., and who has provided to
17 the board of review at least five days prior notice either through appearing in person
18 at the board of review's office or by filing such complaint by means of certified mail
19 which shall be received at the board office no later than five days prior to the public
20 hearing or by facsimile transmission to the board office which shall be received at
21 the board office no later than five days prior to the public hearing. Contrary
22 provisions of law notwithstanding, the written or oral complaint of any bona fide
23 representative of an affected tax recipient body shall be considered by the board of
24 review provided such representative has provided notice to the board in the manner
25 provided in this Section and has furnished the owner's name and address, a
26 description of each property contested, and the assessment number of each property
27 contested. Nothing contained herein shall be construed to authorize a tax recipient
28 body to challenge the assessment of all property within its taxing jurisdiction in a
29 single complaint. The validity of each assessment shall be determined on its own

1 merits. The board of review may make a determination to increase or decrease the
2 assessment of immovable or movable property made by the assessor in accordance
3 with the criterion set forth in R.S. 47:1978(A).

4 D. All determinations by the board of review shall be final unless appealed
5 to the tax commission. Any taxpayer or assessor dissatisfied with the determination
6 of the board of review may appeal to the tax commission within five days after the
7 determination of the board of review in accordance with rules and regulations
8 established by the tax commission.

9 E. On the tenth day after the board of review shall have commenced the
10 public hearings as provided herein, the assessment lists, together with any changes
11 in connection therewith, shall be certified and sent to the tax commission within
12 three days.

13 F. The period for inspection of the assessment lists as provided for in this
14 Section in each parish shall be for a period of seven days following the completion
15 of the listing of assessments by the assessor as a result of R.S. 47:1978(A).

16 G. The assessor shall file the assessment roll with the Louisiana Tax
17 Commission no later than sixty days after the board of review has sent the
18 assessment list to the Louisiana Tax Commission.

19 Section 2. This Act shall become effective upon signature by the governor or, if not
20 signed by the governor, upon expiration of the time for bills to become law without signature
21 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become
23 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Arnold

HB No. 37

Abstract: Establishes certain procedures in the event of public calamity or disaster for the assessment of damaged property, the deferment of tax payments, and the extension of the homestead exemption.

Proposed law requires that assessors of parishes where land or property damaged or destroyed during a disaster or emergency declared by the governor is located assess such land or property for the year in which the damage has occurred as provided in the constitution by taking into consideration all damages to land or property and the depreciation of such land or property caused by the disaster or emergency. Provides that the assessments shall be made whether the time provided by law for filing assessment rolls has elapsed or not. Provides that the assessments are subject to review and filing requirements as provided in present law or authorizes assessors to prepare supplemental rolls of damaged or destroyed property.

Proposed law provides that if the assessor has completed public exposure and the board of review of the assessment roll for the year, the assessor may issue change orders for the assessment of damaged or destroyed property in lieu of existing roll or filing supplemental roll. Provides procedures for filing change orders.

Proposed law requires that assessment rolls for damaged and destroyed property be subject to review. Requires public hearings within seven days of receipt of the assessment lists.

Proposed law provides for appellate procedure through the Louisiana Tax Commission (LTC) and provides that decisions by the LTC are final unless appealed to district court within seven days. Provides procedure for appeal to district court.

Proposed law provides for inspection of assessment lists. Requires that lists be exposed daily for seven days.

Proposed law requires that the lists, after exposure, be certified to the board of review within three days and requires the board to conduct public hearings to discuss lists. Provides procedure for board to consider written or oral complaints. Provides that determinations by the board of review are final unless appealed to the LTC within five days.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:1978; Adds R.S. 47:1703(E), 1989.2, and 1992.1)