

First Extraordinary Session, 2005

HOUSE BILL NO. 43

BY REPRESENTATIVES HAMMETT AND PINAC

TAX/AD VALOREM TAX: Provides with respect to the postponement of ad valorem taxes in parishes affected by a natural disaster (Item #42)

1 AN ACT

2 To amend and reenact R.S. 47:2106 and to enact R.S. 47:1703(E), relative to the homestead
3 exemption; to provide for an extension of the homestead exemption when property
4 is damaged by public calamity or disaster; to provide deferment of tax payments in
5 case of public calamity or disaster; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:2106 is hereby amended and reenacted and R.S. 47:1703(E) is
8 hereby enacted to read as follows:

9 §1703. Exemptions

10 * * *

11 E. Public Disaster. Any taxpayer entitled to the homestead exemption set
12 forth in Article VII, Section 20 of the Constitution of Louisiana who is unable to
13 occupy the homestead on or before December thirty-first of the calendar year due to
14 overflow, flood, or damage by rain, wind, hurricane, tornado, or other public
15 calamity, general conflagration, or disaster as defined in the Louisiana Homeland
16 Security and Emergency Assistance Disaster Act shall be entitled to claim the
17 exemption by filing with the assessor of the parish in which the homestead was
18 located, an affidavit of intent to return and reoccupy the homestead within a period
19 of five years from December thirty-first of the tax year in which the disaster
20 occurred. No other homestead exemption shall exist.

21 * * *

1 §2106. Deferment of tax payments

2 A. Any delinquent ad valorem tax due to the state or to any political
3 subdivisions thereof may be paid to such taxing authority in installments, and interest
4 at the rate fixed by law shall be collected on each installment separately at the time
5 of the payment of such installment, and no further interest shall thereafter be
6 collected on the amount of such installment payment, provided nothing contained in
7 this Section shall prevent the sale of the property for delinquent taxes, as provided
8 by law. Where installments have been collected on any tax, the tax sale shall be for
9 the amount of the unpaid balance of the tax.

10 B. Any political subdivision of the state, through its governing body, when
11 an emergency has been declared to exist by resolution or ordinance adopted by such
12 governing body, shall be authorized and empowered to reduce the interest charge or
13 penalties on ad valorem taxes due to the political subdivision, but in no event shall
14 the rate of interest be reduced to less than six ~~per centum (6%)~~ percent, and no
15 reduction in penalties shall exceed fifty ~~per centum (50%)~~ percent of the amount of
16 the penalty.

17 C. ~~In case of overflow, general conflagration, general destruction of crops,~~
18 ~~or other public calamity,~~ Whenever lands or other property, including buildings,
19 structures, or personal property are overflowed or flooded by water or are damaged
20 by rain, wind, hurricane, tornado, or other public calamity, general conflagration, or
21 disaster as defined in the Louisiana Homeland Security and Emergency Assistance
22 and Disaster Act, in any parish or any political subdivision therein, or of which the
23 parish is a part, rendering impracticable the forcible collection of taxes therein, there
24 shall be no collection of taxes on lands or other property affected, including
25 buildings, structures, or personal property damaged during the year of the calamity
26 events described in this Section, or the preceding year when the payment of such
27 taxes for the preceding year is affected by the calamity events described in this
28 Section, but the collection of taxes shall be postponed in accordance with the
29 following procedure:

1 (1) The owner wishing to avail himself of the provisions of this Section shall
2 make a sworn statement in triplicate, ~~on or before December 31st of the year in~~
3 ~~which the taxes are assessed;~~ no later than sixty days after the tax bill has been
4 mailed that his property has been or ~~is overflowed, or is or has been otherwise~~
5 ~~injured or destroyed~~ overflowed or flooded by water or has been or is damaged by
6 rain, wind, hurricane, tornado, or other public calamity, general conflagration, or
7 disaster as defined in the Louisiana Homeland Security and Emergency Assistance
8 and Disaster Act, giving the description of his property as assessed, and that by
9 reason thereof, the forcible collection of the taxes of the year during which the injury
10 occurred, or the preceding year, would be oppressive, and that he is unable to pay the
11 same without a sacrifice of his property or without substantial financial hardship.
12 Each copy of the statement shall be signed and sworn to by the taxpayer claiming the
13 benefit of this Section; one copy of the statement shall be filed with the officer
14 charged with the collection of the taxes, one filed in the office of the state auditor,
15 and one shall be filed in the office of the recorder of mortgages of the parish in
16 which the property is located. Thereupon, the owner shall be relieved from the
17 payment of taxes for the year in which he claims a postponement. The filing shall
18 operate as a first lien and privilege, and the statement shall be preserved in book
19 form and duly indexed. The taxes thus postponed shall be divided into ten equal
20 parts, and one part shall be assessed on the immovable property affected and
21 described in the sworn statement for each year for ten subsequent years, or until the
22 whole of the postponed tax is paid, provided that when the tax debtor is assessed
23 with movables only, the postponed taxes shall be assessed against the tax debtor in
24 this manner. All of the postponed taxes may be paid at any time and the lien
25 canceled. No installment of such tax, if paid at the postponed maturity, shall bear
26 either costs or penalties when so collected, but shall bear interest at the rate of six
27 ~~per centum (6%)~~ percent per annum from the thirty-first day of December of the year
28 in which they were originally due until paid. The tax collector shall make a separate
29 statement and list of all persons claiming the benefits of this Section, together with

1 the respective amount of their taxes, and the property upon which the taxes are due,
2 and shall deliver over one copy of the same to the assessor of the parish, who will
3 assess in each subsequent year upon the respective immovable properties therein
4 described a one-tenth part of the taxes referred to in the respective triplicate sworn
5 statements and thus postponed, until all of said taxes have been assessed, and the
6 respective immovable properties shall be liable for the respective parts of the
7 postponed taxes. In case the list shows that a tax debtor owns movables only, the
8 postponed taxes shall be assessed against the debtor in this manner. The statement
9 thus prepared by the tax collector shall be prepared in duplicate, sworn to, and one
10 copy delivered to the state auditor.

11 (2) The deferred portion of the taxes herein provided for shall be annually
12 levied and assessed and carried upon the assessment roll and collected in the manner
13 and by the processes provided in the case of ordinary tax collections and separately
14 accounted for by the tax collector and remitted to the ~~State Treasurer~~ state treasurer,
15 who shall credit the amount thereof to the parish making the remittance, and shall
16 turn such amount into the general fund.

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

Hammett

HB No. 43

Abstract: Provides for the continuation of the homestead exemption where the homestead is damaged due to a gubernatorially declared disaster or emergency.

Proposed law provides that any homestead receiving the homestead exemption that is damaged or destroyed during a gubernatorially declared disaster or emergency, whose owner is unable to occupy the homestead, shall be entitled to claim the exemption by filing with the assessor an affidavit of intent to return and reoccupy the homestead within a period of five years from December 31 of the tax year in which the disaster occurred.

Proposed law provides that no more than one homestead exemption shall extend or apply to any person in this state.

Proposed law authorizes deferment of tax payments for property damaged by water, rain, wind, hurricane, a tornado, or other disaster defined by Homeland Security Act.

Requires that a taxpayer seeking deferment provide a sworn statement that the property has been damaged no later than 60 days after the tax bill is mailed.

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

(Amends R.S. 47:2106; Adds R.S. 47:1703(E))