

First Extraordinary Session, 2005

HOUSE BILL NO. 44

BY REPRESENTATIVES HAMMETT AND PINAC

TAX/AD VALOREM TAX: Provides with respect to the deferment of tax payments where property subject to ad valorem taxation has been damaged during a gubernatorially declared disaster or emergency (Item #40)

1 AN ACT

2 To amend and reenact R.S. 47:2106, relative to the deferment of ad valorem tax payments
3 where property subject to ad valorem taxation has been damaged or destroyed during
4 a gubernatorially declared disaster or emergency; to provide for an effective date;
5 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 to read as follows:

8 §2106. Deferment of tax payments

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

17 B. Any political subdivision of the state, through its governing body, when
18 an emergency has been declared to exist by resolution or ordinance adopted by such
19 governing body, shall be authorized and empowered to reduce the interest charge or

1 penalties on ad valorem taxes due to the political subdivision; but in no event shall
2 the rate of interest be reduced to less than six ~~per centum (6%)~~ percent, and no
3 reduction in penalties shall exceed fifty ~~per centum (50%)~~ percent of the amount of
4 the penalty.

5 C. In case of overflow, general conflagration, general destruction of crops,
6 or other public calamity, Whenever lands or other property, including buildings,
7 structures, or personal property are damaged or destroyed during a disaster or
8 emergency declared by the governor, in any parish or any political subdivision
9 therein, or of which the parish is a part, rendering impracticable the forcible
10 collection of taxes therein, there shall be no collection of taxes on lands or other
11 property ~~affected, including buildings, structures, or personal property damaged~~
12 during the year of the calamity events described in this Section, or the preceding year
13 when the payment of such taxes for the preceding year is affected by the ~~calamity the~~
14 events described in this Section, but the collection of taxes shall be postponed in
15 accordance with the following procedure:

16 (1) The owner wishing to avail himself of the provisions of this Section shall
17 make a sworn statement in triplicate, ~~on or before December 31st of the year in~~
18 ~~which the taxes are assessed,~~ no later than sixty days after the tax bill has been
19 mailed that his property has been or is overflowed, or is or has been otherwise
20 injured or destroyed during a disaster or emergency declared by the governor, giving
21 the description of his property as assessed, and that by reason thereof, the forcible
22 collection of the taxes of the year during which the injury occurred, or the preceding
23 year, would be oppressive, and that he is unable to pay the same without a sacrifice
24 of his property. Each copy of the statement shall be signed and sworn to by the
25 taxpayer claiming the benefit of this Section; one copy of the statement shall be filed
26 with the officer charged with the collection of the taxes, one filed in the office of the
27 state auditor, and one shall be filed in the office of the recorder of mortgages of the
28 parish in which the property is located. Thereupon, the owner shall be relieved from
29 the payment of taxes for the year in which he claims a postponement. The filing

1 shall operate as a first lien and privilege, and the statement shall be preserved in
2 book form and duly indexed. The taxes thus postponed shall be divided into ten
3 equal parts, and one part shall be assessed on the immovable property affected and
4 described in the sworn statement for each year for ten subsequent years, or until the
5 whole of the postponed tax is paid, provided, that when the tax debtor is assessed
6 with movables only, the postponed taxes shall be assessed against the tax debtor in
7 this manner. All of the postponed taxes may be paid at any time and the lien
8 canceled. No installment of such tax, if paid at the postponed maturity, shall bear
9 either costs or penalties when so collected, but shall bear interest at the rate of six ~~per~~
10 ~~centum (6%)~~ percent per annum from the thirty-first day of December of the year
11 in which they were originally due until paid. The tax collector shall make a separate
12 statement and list of all persons claiming the benefits of this Section, together with
13 the respective amount of their taxes, and the property upon which the taxes are due,
14 and shall deliver over one copy of the same to the assessor of the parish, who will
15 assess in each subsequent year upon the respective immovable properties therein
16 described a one-tenth part of the taxes referred to in the respective triplicate sworn
17 statements and thus postponed until all of said taxes have been assessed, and the
18 respective immovable properties shall be liable for the respective parts of the
19 postponed taxes. In case the list shows that a tax debtor owns movables only, the
20 postponed taxes shall be assessed against the debtor in this manner. The statement
21 thus prepared by the tax collector shall be prepared in duplicate, sworn to, and one
22 copy delivered to the state auditor.

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

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 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. 44

Abstract: Provides with respect to the deferment of tax payments in case of public calamity or disaster.

Present law authorizes delinquent ad valorem taxes to be paid to the taxing authority in installments and provides for the collection of interest at the rate fixed by law on each installment.

Present law provides that any political subdivision, when an emergency has been declared to exist by such governing body, is authorized to reduce the interest charge to no less than 6% and to reduce the penalties by up to 50% on ad valorem taxes due to the political subdivision.

Present law provides in case of overflow, general conflagration, general destruction of crops, or other public calamity in any parish or any political subdivision therein rendering impracticable the forcible collection of taxes, there shall be no collection of taxes on lands or other property during the year of the calamity or the preceding year when the payment of such taxes for the preceding year is affected by the calamity.

Proposed law changes present law to provide that whenever lands or other property, including buildings, structures, or personal property are damaged or destroyed during a disaster or emergency declared by the governor rendering impracticable the forcible collection of taxes therein, there shall be no collection of taxes on lands or other property, including buildings, structures, or personal property damaged during the year in which the event occurred or the preceding year when the payment of such taxes for the preceding year is affected by the event.

Present law provides that the owner wishing to postpone the payment of taxes shall make a sworn statement in triplicate on or before December 31 of the year in which the taxes are assessed that his property has been injured or destroyed, giving a description of the property as assessed, and that by reason thereof, the forcible collection of taxes would be oppressive and that he is unable to pay the taxes without a sacrifice of his property.

Proposed law changes the time for filing the sworn statement from December 31 of the year in which the calamity occurred to no later than 60 days after the tax bill has been mailed.

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

(Amends R.S. 47:2106)