

First Extraordinary Session, 2005

SENATE BILL NO. 41

BY SENATORS MOUNT, MURRAY AND NEVERS

TAX/FRANCHISE/CORPORATE. Provides an exemption for the increased borrowed capital incurred by corporations that had 50% of their property in the state located in, or received at least 50% of their in-state revenues from, the hurricane-impacted areas. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:609(A), relative to corporate franchise tax; to provide an  
3 exemption from the corporation franchise tax for extraordinary debt by corporations  
4 directly affected by hurricanes Katrina and Rita; to provide for an effective date; and  
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:609(A) is hereby amended and reenacted to read as follows:

8 §609. Due date, payment and reporting of tax

9 A.(1) The tax levied by this Chapter is for the annual accounting period,  
10 fiscal, or calendar year, regularly used by the taxpayer in keeping its books, with no  
11 proration for a portion of the year in the case of dissolution of domestic corporations,  
12 or withdrawal from the state by foreign corporations, or where a corporation  
13 otherwise ceases to become taxable under this Chapter. The tax is due on the first  
14 day of each calendar or fiscal year and annually thereafter, and, **except as provided**  
15 **in R.S. 47:609(A)(2)**, is computed on the basis of the previous calendar or fiscal year  
16 closing. The tax is payable to the secretary on or before the fifteenth day of the third  
17 month following the month in which the tax is due. However, if the day on which

1 the tax is payable falls on a Saturday, Sunday, or legal holiday the tax shall be  
2 payable on the next business day. With its payment the taxpayer shall deliver to the  
3 secretary a full, accurate, and complete report and statement signed by a duly  
4 authorized official of the corporation, containing such information as the secretary  
5 may require.

6 **(2)(a) For taxable periods beginning after August 28, 2005, a corporation**  
7 **that incurred extraordinary debt as a result of a gubernatorially declared**  
8 **disaster of 2005 may elect to compute its borrowed capital on the basis of the**  
9 **calendar or fiscal year closing immediately prior to August 28, 2005, if it meets**  
10 **either of the following conditions:**

11 **(i) Fifty percent or more of the corporation's revenue derived in the state**  
12 **for the fiscal year closing immediately prior to August 28, 2005, was directly**  
13 **attributable to one or more Hurricane Katrina or Hurricane Rita Federal**  
14 **Emergency Management Agency Individual Assistance Areas.**

15 **(ii) Fifty percent or more of the corporation's property and assets in the**  
16 **state were situated or used in one or more Hurricane Katrina or Hurricane Rita**  
17 **Federal Emergency Management Agency Individual Assistance Areas on the**  
18 **date of the calendar or fiscal year closing immediately prior to August 28, 2005.**

19 **(b) "Extraordinary debt incurred as a result of a gubernatorially**  
20 **declared disaster of 2005" means any borrowed capital of a corporation to**  
21 **which R.S. 47:609(A)(2)(a)(i) or (ii) applies that is in excess of the borrowed**  
22 **capital on that corporation's books on the calendar or fiscal year closing**  
23 **immediately prior to August 28, 2005.**

24 \* \* \*

25 Section 2. This Act shall be effective for the taxable periods beginning after August  
26 28, 2005.

27 Section 3. This Act shall become effective upon signature by the governor or, if not  
28 signed by the governor, upon expiration of the time for bills to become law without signature  
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Mount (SB 41)

Present law imposes a corporate franchise tax on corporations based upon the amount of their capital stock, surplus, undivided profits, and "borrowed capital" on their books at the closing of the previous calendar or fiscal year.

Proposed law authorizes corporations set forth below that have "borrowed capital" that is in excess of the "borrowed capital" on that corporation's books on the calendar or fiscal year closing immediately prior to August 28, 2005, to elect to compute the "borrowed capital" portion of their franchise tax base on the basis of the previous calendar or fiscal year closing immediately prior to August 28, 2005.

The corporations authorized to use this election are corporations that either had (1) at least 50% of their property in the state located in, or (2) received at least 50% of their in-state revenues from, the Hurricane Katrina or Hurricane Rita FEMA "Individual Assistance Areas."

Effective for taxable periods beginning after August 28, 2005.

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

(Amends R.S. 47:609(A))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Specifies that, to receive the exemption, the corporation need only have 50% of its in-state property or in-state revenues from the declared disaster areas.