

First Extraordinary Session, 2005

SENATE BILL NO. 20

BY SENATORS MOUNT AND MURRAY

TAX/AD VALOREM. Provides for the extension of the homestead exemption and the "special assessment level" in the event of a public disaster, and a procedure for the postponement of payments of property taxes in the event of public disaster. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:2106 and to enact R.S. 47:1703(E), relative to ad valorem
3 property tax on damaged property; to provide for continuation of the homestead
4 exemption where the owner is unable to occupy the homestead due to a disaster or
5 emergency; to provide for the postponement and later collection of such taxes in
6 parishes affected by disasters and other calamities; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

10 §1703. Exemptions

11 * * *

12 **E.(1) Any homestead receiving the homestead exemption that is damaged**
13 **or destroyed during a disaster or emergency declared by the governor, whose**
14 **owner is unable to occupy the homestead on or before December thirty-first of**
15 **a calendar year due to such damage or destruction, shall be entitled to claim the**
16 **exemption by filing with the assessor of the parish or district in which the**
17 **homestead is located, an affidavit of intent to return and reoccupy the**

1 homestead within the period of five years from December thirty-first of the tax
2 year in which the disaster occurred. In no event shall more than one homestead
3 exemption extend or apply to any person in this state.

4 (2) Any other owner entitled to the special assessment level set forth in
5 Article VII, Section 18(G) of the Constitution of Louisiana who is unable to
6 occupy the homestead on or before December thirty-first of a future calendar
7 year due to damage or destruction of the homestead caused by a disaster or
8 emergency declared by the governor shall be entitled to keep the special
9 assessment level on the repaired or rebuilt homestead at its level prior to its
10 damage or destruction provided the repaired or rebuilt homestead is reoccupied
11 by the owner within five years from December thirty-first of the year following
12 the disaster. The assessed value of the land and buildings on which the
13 homestead was located prior to its damage shall not be increased above its
14 assessed value immediately prior to the damage or destruction described in this
15 Paragraph. If the property owner receives a homestead exemption on another
16 homestead during the same five year period, the damaged or destroyed
17 property shall not be entitled to keep the special assessment level, and the land
18 and buildings shall be assessed in that year at the percentage of fair market
19 value set forth in the Constitution of Louisiana. In addition, the owner shall also
20 maintain the homestead exemption set forth in Article VII, Section 20(A) to
21 qualify for the special assessment level in this Subparagraph.

22 * * *

23 §2106. Deferment of tax payments

24 A. Any delinquent ad valorem tax due to the state or to any political
25 subdivisions thereof may be paid to such taxing authority in installments, and interest
26 at the rate fixed by law shall be collected on each installment separately at the time
27 of the payment of such installment, and no further interest shall thereafter be
28 collected on the amount of such installment payment; provided nothing contained in
29 this Section shall prevent the sale of the property for delinquent taxes, as provided

1 by law. Where installments have been collected on any tax, the tax sale shall be for
2 the amount of the unpaid balance of the tax.

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

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

21 **(1)(a)(i)** The owner wishing to avail himself of the provisions of this Section
22 shall make a sworn statement in triplicate, ~~on or before December 31st of the year~~
23 ~~in which the taxes are assessed~~ **no later than December thirty-first of the year in**
24 **which the damage or destruction occurred, or thirty days after the tax bill has**
25 **been mailed, whichever is later,** that his property has been or is overflowed, or is
26 or has been otherwise injured or destroyed, giving the description of his property as
27 assessed, and that by reason thereof, the forcible collection of the taxes of the year
28 during which the injury occurred, or the preceding year, would be oppressive, and
29 that he is unable to pay the same without a sacrifice of his property. Each copy of

1 the statement shall be signed and sworn to by the taxpayer claiming the benefit of
2 this Section; one copy of the statement shall be filed with the officer charged with
3 the collection of the taxes, one filed in the office of the state auditor, and one shall
4 be filed in the office of the recorder of mortgages of the parish in which the property
5 is located. Thereupon, the owner shall be relieved from the payment of taxes for the
6 year in which he claims a postponement. The filing shall operate as a first lien and
7 privilege, and the statement shall be preserved in book form and duly indexed.

8 **(ii) A statement of the right of the owner to have his taxes postponed as**
9 **provided for in this Paragraph shall be included with the tax bill mailed to the**
10 **taxpayer if such tax bill is mailed after the effective date of this Section.**

11 **(b)(i)** The taxes thus postponed shall be divided into ten equal parts and one
12 part shall be assessed on the immovable property affected and described in the sworn
13 statement for each year for ten subsequent years, or until the whole of the postponed
14 tax is paid; provided, that when the tax debtor is assessed with movables only, the
15 postponed taxes shall be assessed against the tax debtor in this manner.

16 **(ii)** All of the postponed taxes may be paid at any time, and the lien canceled.
17 No installment of such tax, if paid at the postponed maturity, shall bear either costs
18 or penalties when so collected, but shall bear interest at the rate of six ~~per centum~~
19 ~~(6%)~~ **percent** per annum from the thirty-first day of December of the year in which
20 they were originally due until paid.

21 **(iii)** The tax collector shall make a separate statement and list of all persons
22 claiming the benefits of this Section, together with the respective amount of their
23 taxes, and the property upon which the taxes are due, and shall deliver over one copy
24 of the same to the assessor of the parish, who will assess in each subsequent year
25 upon the respective immovable properties therein described a one-tenth part of the
26 taxes referred to in the respective triplicate sworn statements and thus postponed,
27 until all of said taxes have been assessed, and the respective immovable properties
28 shall be liable for the respective parts of the postponed taxes. In case the list shows
29 that a tax debtor owns movables only, the postponed taxes shall be assessed against

1 the debtor in this manner. The statement thus prepared by the tax collector shall be
2 prepared in duplicate, sworn to, and one copy delivered to the state auditor.

3 **D.** The deferred portion of the taxes herein provided for shall be annually
4 levied and assessed, and carried upon the assessment roll and collected in the manner
5 and by the processes provided in the case of ordinary tax collections, and separately
6 accounted for by the tax collector and remitted to the state treasurer, who shall credit
7 the amount thereof to the parish making the remittance, and shall turn such amount
8 into the general fund.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 effective on the day following such approval.

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

DIGEST

Mount (SB 20)

Proposed law as to the homestead exemption and the special assessment level.

Authorizes retention of the homestead exemption and the special assessment level at its pre-disaster level if the homestead is damaged or destroyed during a disaster or emergency declared by the governor and whose owner is unable to occupy it.

In order to receive the homestead exemption, the owner must file an affidavit before December 31st of the year of the disaster of his intent to return and reoccupy within a period of 5 years from December 31st of the tax year in which the disaster occurred. Explicitly prohibits the extension or application of more than one homestead exemption to any person in the state.

In order to receive the "special assessment level," the repaired or rebuilt homestead must be reoccupied by the owner within 5 years from December 31st of the year following the disaster. The assessed value of the land and buildings on which the homestead was located prior to its damage cannot be increased above its assessed value immediately prior to the damage or destruction and still retain the special assessment level.

If the property owner receives a homestead exemption on another homestead during the same 5-year period, or fails to maintain the homestead exemption on the damaged or destroyed property, the property loses the special assessment level and the land and buildings are to be assessed in that year at the percentage of fair market value set forth in the constitution.

Proposed law as to deferral and postponement of tax upon damaged or destroyed property.

Present law requires assessments to be made on the basis of the conditions of things on January 1st (August 1st in New Orleans). Political subdivisions are authorized to reduce the interest charge or penalties on property taxes due when they declare an emergency by ordinance or resolution, but are prohibited from reducing the interest rate to less than 6% and penalties to 50% of the amount of the penalty.

Present law provides that there shall be no collection of tax during a year when property is affected by "overflow, general conflagration, general destruction of crops, or other public calamity" rendering "impracticable" the forcible collection of taxes - or the preceding year when the payment of such taxes for the preceding year is affected by the calamity.

However, the collection of taxes is required to be "postponed" in accordance with the following procedure:

The owner of the affected property is relieved from paying the taxes in that year if he makes a sworn statement on or before December 31st of the year in which the taxes are assessed, that his property has been injured or destroyed, giving the description of his property as assessed, and that by reason thereof, the forcible collection of the taxes of the year during which the injury occurred, or the preceding year, would be oppressive, and that he is unable to pay the same without a sacrifice of his property.

The taxes "postponed" must be divided into 10 equal parts which are assessed on the property for 10 subsequent years, and must bear interest at the rate of 6% per annum from the thirty-first day of December of the year in which they were originally due until paid. All of the postponed taxes may be paid at any time, and the lien canceled.

The filing of the owner's sworn statement operates as a first lien and privilege.

Proposed law makes the "postponement" procedure available whenever lands or other property, including buildings, structures, or personal property, are damaged or destroyed during any disaster or emergency declared by the governor. The sworn statement that property has been damaged or destroyed must be filed 30 days after the damage or destruction or by December 31st of that year, whichever occurs later.

Requires a statement of the right of the owner to have his taxes postponed to be provided with the tax bill.

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

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

Summary of Amendments Adopted by Senate

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

1. Changes the time limit for a taxpayer to file an affidavit requesting postponement ~~from~~ 60 days after the mailing of the tax bill to 30 days, or December 31st of the year damage occurred, whichever is later.
2. Requires a statement of the right of the owner to have his taxes postponed to be provided with the tax bill.