

First Extraordinary Session, 2005

HOUSE BILL NO. 41

BY REPRESENTATIVES HAMMETT, PINAC, ARNOLD, BALDONE, DARTEZ, FARRAR, FAUCHEUX, HEATON, HILL, MONTGOMERY, ODINET, SCALISE, JANE SMITH, TOWNSEND, TUCKER, ALARIO, ALEXANDER, ANSARDI, BEARD, BOWLER, BRUCE, BURNS, CAZAYOUX, CRANE, CRAVINS, CROWE, CURTIS, DAMICO, DANIEL, DEWITT, DOERGE, DORSEY, DOVE, DOWNS, DURAND, ERDEY, FANNIN, FRITH, GEYMANN, GLOVER, GREENE, E. GUILLORY, M. GUILLORY, HARRIS, HEBERT, HONEY, HOPKINS, HUTTER, JACKSON, JOHNS, KATZ, KENNARD, KENNEY, KLECKLEY, LABRUZZO, LAMBERT, LANCASTER, MARTINY, MCDONALD, MCVEA, MORRELL, PIERRE, PITRE, M. POWELL, T. POWELL, QUEZAIRE, RICHMOND, RITCHIE, ROBIDEAUX, SALTER, SMILEY, GARY SMITH, JACK SMITH, JOHN SMITH, ST. GERMAIN, STRAIN, THOMPSON, TOOMY, TRAHAN, WADDELL, WALKER, WALSWORTH, WHITE, WINSTON, WOOTON, AND WRIGHT AND SENATORS HEITMEIER, HINES, AND MOUNT

TAX/CORP FRANCHISE: Provides for the computation of borrowed capital by corporations affected by Hurricane Katrina or Rita which have incurred extraordinary debt (Item #16)

1 AN ACT

2 To amend and reenact R.S. 47:609(A), relative to the corporation franchise tax; to provide

3 for the computation of borrowed capital which includes extraordinary debt incurred

4 by corporations directly affected by Hurricanes Katrina and Rita; to provide for an

5 effective date; and 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

1 otherwise ceases to become taxable under this Chapter. The tax is due on the first
 2 day of each calendar or fiscal year and annually thereafter, and, except as provided
 3 for in Paragraph (2) of this Subsection, is computed on the basis of the previous
 4 calendar or fiscal year closing. The tax is payable to the secretary on or before the
 5 fifteenth day of the third month following the month in which the tax is due.
 6 However, if the day on which the tax is payable falls on a Saturday, Sunday, or legal
 7 holiday, the tax shall be payable on the next business day. With its payment the
 8 taxpayer shall deliver to the secretary a full, accurate, and complete report and
 9 statement signed by a duly authorized official of the corporation, containing such
 10 information as the secretary may require.

11 (2)(a) For taxable periods beginning after August 28, 2005, a corporation
 12 that incurred extraordinary debt as a result of a gubernatorially declared disaster of
 13 2005 may elect to compute its borrowed capital on the basis of the calendar or fiscal
 14 year closing immediately prior to August 28, 2005, if:

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

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

23 (b) Extraordinary debt incurred as a result of a gubernatorially declared
 24 disaster of 2005 means any borrowed capital of a corporation to which Subparagraph
 25 (2)(a) or (b) of this Subsection applies that is in excess of the borrowed capital on
 26 that corporation's books on the calendar or fiscal year closing immediately prior to
 27 August 28, 2005.

28 * * *

1 Section 2. This Act shall become effective upon signature of 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 in 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. 41

Abstract: Provides that corporations having 50% or more of their property in or revenue from the parishes most affected by Hurricanes Katrina and Rita may elect to compute the borrowed capital portion of their corporation franchise tax base at pre-hurricane levels.

Present law provides that the franchise tax is computed on the basis of the previous calendar or fiscal year closing.

Proposed law provides that corporations that had at least 50% of their property located in or that receive at least 50% of their revenues from the Hurricane Katrina or Hurricane Rita Federal Emergency Management Agency Individual Assistance Area and 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, will be considered to have incurred extraordinary debt as a result of a gubernatorially declared disaster of 2005 and therefore may elect to compute the borrowed capital portion of their franchise tax base either on the basis of the previous calendar or fiscal year closing or on the basis of the calendar or fiscal year closing immediately prior to August 28, 2005.

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

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