

Regular Session, 2010
HOUSE BILL NO. 667
BY REPRESENTATIVE NOWLIN

ACT No. 1019

1 AN ACT

2 To enact R.S. 47:337.28.1, relative to collection of local sales and use tax; to prohibit certain
3 arbitrary assessments by tax collectors; to define arbitrary assessment; to authorize
4 the recovery of litigation costs under certain circumstances; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:337.28.1 is hereby enacted to read as follows:

8 §337.28.1 Arbitrary assessments prohibited

9 A. Notwithstanding any provision of this Chapter to the contrary, the
10 collector shall be prohibited from issuing an arbitrary assessment. For purposes of
11 this Chapter, the term "arbitrary assessment" shall mean an estimated assessment
12 issued by the local collector which does not comply with R.S. 47:337.28, 337.48(A),
13 or 337.53. However, no provision of this Chapter shall prevent the collector from
14 determining correct tax as provided for in R.S. 47:337.35. An assessment shall not
15 be considered an "arbitrary assessment" if the taxpayer does not provide records as
16 required by R.S. 47:337.29 and/or R.S. 47:337.36. The taxpayer shall bear the
17 burden of proving that the assessment was not in compliance with the law.

18 B. If the assessment by the collector is determined by a court of competent
19 jurisdiction to be an arbitrary assessment, the assessment shall neither interrupt nor
20 suspend prescription, and the dealer shall be reimbursed by the collector for
21 reasonable costs of litigation. The amount of costs recoverable under this Section
22 shall not exceed ten percent of the taxes, interest, and penalty that were arbitrarily
23 assessed, which amount shall be subject to the discretion of the court as to
24 reasonableness.

1 C. No assessment shall be made under this Chapter for the purpose of
 2 depriving a taxpayer of his constitutional right to a three-year prescriptive period for
 3 the assessment of tax in accordance with Article VII, Section 16 of the Constitution
 4 of Louisiana.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____