

Regular Session, 2013

SENATE BILL NO. 228

BY SENATOR CROWE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/AD VALOREM. Authorize homeowners, aged 65 years or older with financial hardship, to postpone payment of ad valorem taxes on their homestead until death. (See Act)

AN ACT

To amend and reenact R.S. 44:4.1(B)(32) and to enact R.S. 47:2130.1, relative to the postponement of the payment of ad valorem taxes; to provide for an exception to the laws relative to public records; to provide for the postponement of the payment of ad valorem taxes; to provide for definitions; to provide conditions and requirements under which postponement may be permitted; to provide for the application and reapplication process; to provide for forms; to provide for time limits; to provide for notification to political subdivisions; to provide for an objection to postponement and a review process; to provide for a tax sale if postponed taxes are not timely paid; to provide for the tax collector to compile a list of all persons whose taxes were postponed; to provide for the remission of the postponed taxes; to provide for an effective date contingent upon the passage of a companion constitutional amendment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:4.1(B)(32) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

* * *

1 management and budget, for the year in which the application is made.

2 (2) In cases where the taxes have been postponed pursuant to this
3 Section, the deferred taxes on the homestead plus judicial interest shall be due
4 upon the death of the decedent or the death of the surviving spouse if the
5 homestead is community property.

6 C. Right to a postponement of onerous taxes. The collection of taxes
7 shall be postponed by the tax collector when all of the following occur:

8 (1) The taxpayer is a homeowner who has a valid homestead exemption
9 on the property pursuant to Article VII, Section 20 of the Constitution of
10 Louisiana.

11 (2) The taxpayer has been granted a special assessment pursuant to
12 Article VII, Section 18(G) of the Constitution of Louisiana. The special
13 assessment may be executed at the same time as the postponement provided for
14 in this Section.

15 (3) The taxpayer has reached the age of sixty-five years.

16 (4) The taxpayer has an annual household income that does not exceed
17 two hundred and fifty percent of the current federal poverty guidelines.

18 D. Application for postponement.

19 (1) The tax debtor seeking the postponement of the payment of taxes
20 shall file a sworn application, executed before a person authorized to administer
21 oaths, accompanied by a supporting financial statement. The application shall:

22 (a) Certify that the property is a homestead and is owned and occupied
23 by the taxpayer or taxpayers if the property is community property.

24 (b) Provide a valid birth certificate to verify that the age of the taxpayer
25 is at least sixty-five years of age.

26 (c) Provide a valid federal or state income tax return for the taxpayer
27 or, in cases of the property being community property, provide a valid joint
28 federal or state income tax return.

29 (d) If the taxpayer is not required to file a federal or state income tax

1 return, then provide income information from a government source, including
2 but not limited to, proof of income from the Social Security Administration.

3 (e) If the property has a mortgage, the application must have the consent
4 for the postponement from the lending institution which holds the mortgage on
5 the property.

6 (f) Certify that the collection of the taxes that became due on or after the
7 date in which the taxpayer became sixty-five years of age would be onerous
8 because the tax debtor applying for postponement is unable to pay the taxes
9 without suffering substantial hardship.

10 (2) The completed sworn financial statement submitted in support of an
11 application for the postponement of the payment of taxes shall not be subject
12 to the laws relative to public records, R.S. 44:1 et seq., and shall be confidential,
13 except that the financial statement shall be admissible in evidence in a
14 proceeding to contest an application for postponement of the payment of taxes.
15 The tax collector shall retain the financial statement until the period for
16 contesting the postponement has expired without an objection being filed or
17 until there has been a definitive decision in a contest proceeding. Thereafter,
18 the tax collector may destroy the financial statement.

19 (3) The tax collector shall, and the assessor may, keep appropriate
20 application forms and blank financial statement forms available for use by tax
21 debtors. The tax collector, or his authorized deputy collector, shall be
22 competent to administer the oath required for this application. The following
23 forms may be used to apply for the postponement:

24 STATE OF LOUISIANA _____

25 PARISH OF _____

26 APPLICATION FOR POSTPONEMENT OF AD VALOREM TAXES

27 BEFORE ME, the undersigned authority personally appeared _____,
28 a tax debtor, who requests postponement of payment of ad valorem taxes
29 pursuant to the provisions of R.S. 47:2130.1 for the following property:

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(Give the description of homestead property as assessed)

Appearer certifies each of the following:

- 1. That the property has received a homestead exemption pursuant to Article VII, Section 20 of the Constitution of Louisiana.**
- 2. That the property is a homestead that is owned and occupied by the taxpayer.**
- 3. That the property has been granted a special assessment to prohibit an increase in the valuation of the property pursuant to Article VII, Section 18(G) of the Constitution of Louisiana.**
- 4. That the taxpayer is at least sixty-five years of age.**
- 5. That the taxpayer has an annual household income that does not exceed two hundred and fifty percent of the current federal poverty guidelines.**
- 6. _____ (check if applicable) The property has a mortgage and the lending institution has agreed to the application.**
_____ (check if applicable) The property does not have a mortgage.
- 7. Appearer certifies that the collection of the taxes that became due after the taxpayer has reached the age of sixty-five would be onerous because appearer is unable to pay the taxes without suffering substantial hardship. Appearer submits his financial statement in support of this application and certifies that it is true and correct as of this date.**

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, _____ at _____ Louisiana.

Full Name of Affiant

Notary Public or authorized tax collector

Notary #

E. The financial statement provided for in R.S. 47:2130(D)(3) may be

1 used by the tax collector.

2 F. Reapplication. A tax debtor may reapply for postponement of taxes
3 as provided for in this Section for each consecutive year after the year in which
4 the original postponement was granted when the conditions which initially
5 authorized the postponement remain in effect.

6 G. Time for filing application. The initial application and any
7 reapplication for postponement shall be filed with the tax collector no later than
8 December thirty-first of the year in which the taxpayer has turned sixty-five
9 years of age or no later than thirty calendar days after the tax bill has been
10 mailed, whichever is later.

11 H. Notification of filing. The tax collector shall send to each political
12 subdivision for which the postponed taxes are assessed and collected a copy of
13 each application by reliable electronic means, certified mail, or hand delivery
14 with a receipt.

15 I. Political subdivision contest of postponement. A political subdivision
16 may contest the postponement of the taxes in a written objection filed with the
17 tax collector within thirty calendar days after receiving the copy of the
18 application for postponement. It shall state the factual and legal reasons for
19 contesting postponement. Concurrently, the political subdivision shall send a
20 copy of the objection to the tax debtor at the address on the application by
21 reliable electronic means, certified mail, or hand delivery with a receipt.
22 Finally, the tax collector shall send verified copies of the application, supporting
23 financial statement, and the written objection to the parish governing authority
24 within ten calendar days after the date the objection was filed.

25 J. Contest; review of decision. The merits of the objection shall be
26 decided by the parish governing authority, which decision shall be subject to
27 review by the Louisiana Tax Commission, or its successor, on request of either
28 the tax debtor or the objecting political subdivision. That decision shall be
29 subject to appeal to the district court. The review and appeal shall be in

1 accordance with the procedures established by law, the Louisiana Tax
2 Commission rules, or ordinance of the parish governing authority for the review
3 and appeal of the correctness of an assessment made by the assessor.

4 K. Effective date of postponement.

5 (1) If no objection is filed, the payment of taxes shall be postponed. If
6 an objection is filed, payment of taxes shall be postponed until all objections are
7 finally decided by the parish governing authority or the Louisiana Tax
8 Commission.

9 (2) If no objection is filed, or if the tax debtor has prevailed in a
10 definitive decision on review, the tax collector shall file the application, or a
11 certified copy, with the recorder of mortgages in each parish in which the
12 property is located. The application filed shall not include the supporting
13 financial statement.

14 L. Payment upon the death of taxpayer; failure to occupy; interests.

15 (1) The postponed taxes shall be due upon the death of the taxpayer and
16 shall be paid by the succession representative. If the homestead is owned by the
17 community, the postponed taxes shall be due upon the death of the surviving
18 spouse and shall be paid by the succession representative.

19 (2) The postponed taxes shall be due when the taxpayer vacates or sells
20 the property. If the homestead is owned by the community, the postponed taxes
21 shall be due at such time that the surviving spouse vacates or sells the property.

22 (3) All the postponed taxes may be paid at any time prior to the death
23 of the taxpayer or prior to the time that the property is sold or vacated.

24 (4) The unpaid balance of the postponed taxes shall bear interest from
25 the date on which the original tax bill was due until paid at the rate of judicial
26 interest payable annually. No other penalties shall be charged when the
27 postponed taxes are collected and paid without the necessity of a tax sale.

28 (5) If the postponed taxes are not timely paid in accordance with this
29 Subsection, all of the unpaid postponed taxes shall become due immediately,

1 and the property shall be sold at a tax sale for the balance of all taxes, interest,
2 and penalties.

3 (6) When all postponed taxes and interest have been paid, the tax debtor
4 may cancel the lien at the tax debtor's expense.

5 M. Assessments after postponement. The tax collector shall prepare a
6 separate written list of all persons whose payment of taxes were postponed. It
7 shall show the amount of the taxes and the property upon which the taxes were
8 postponed. The list shall be prepared in duplicate, sworn to, and one copy shall
9 be delivered to the parish assessor and one copy to the legislative auditor.

10 N. Remission of postponed taxes. The postponed portion of the taxes
11 shall be collected in the same manner as ordinary taxes, separately accounted
12 for, and remitted by the tax collector to the political subdivisions that levied
13 them.

14 Section 3. This Act shall take effect and become operative for all taxable periods
15 beginning after December 31, 2014, but only if and when the proposed amendment of
16 Article VII, Sections 25(A)(1) and (F) of the Constitution of Louisiana contained in the Act
17 which originated as Senate Bill No. 104 of this 2013 Regular Session of the Legislature is
18 adopted at the statewide election to be held on November 4, 2014, and becomes effective.

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

DIGEST

Present law provides that when an emergency has been declared by the governor or a parish president pursuant to the La. Homeland Security and Emergency Assistance and Disaster Act and only in cases of disaster caused by overflow, general conflagration, general crop destruction, or other public calamity, a tax debtor may request the postponement of the payment of ad valorem taxes on his property located in the geographical area designated in the declaration that became due after the declaration of an emergency.

Proposed law retains present law but provides that in cases where a person of the age of sixty-five or older has a valid homestead exemption and has been granted a special assessment to prohibit any further increase in the valuation of the property, the tax assessor shall postpone the collection of taxes upon the application of a taxpayer who has an annual household income that does not exceed two hundred and fifty percent of the current federal poverty guidelines, as established by the federal office of management and budget, for the year in which the application is made.

Proposed law provides that the tax debtor seeking the postponement of the payment of taxes shall file a sworn application, executed before a person authorized to administer oaths, accompanied by a supporting financial statement.

Proposed law provides that the completed sworn financial statement submitted in support of an application for postponement of the payment of taxes shall not be subject to the laws relative to public records and shall be confidential, except that the financial statement shall be admissible in evidence in a proceeding to contest the application.

Proposed law provides that a tax debtor may reapply for postponement of taxes for each consecutive year after the year in which the original postponement was granted when the conditions which initially authorized the postponement remain in effect.

Proposed law provides that the initial application and any reapplication for postponement shall be filed with the tax collector no later than Dec. 31st of the year in which the taxpayer turned 65 or no later than 30 calendar days after the tax bill has been mailed, whichever is later.

Proposed law provides that the tax collector shall send to each political subdivision for which the postponed taxes are assessed and collected a copy of each application by reliable electronic means, certified mail, or hand delivery with a receipt.

Proposed law provides that a political subdivision may contest the postponement of the taxes in a written objection filed with the tax collector within 30 calendar days after receiving the copy of the application for postponement. It shall state the factual and legal reasons for contesting postponement. Concurrently the political subdivision shall send a copy of the objection to the tax debtor at the address on the application by reliable electronic means, certified mail, or hand delivery with a receipt. Finally the tax collector shall send verified copies of the application, supporting financial statement, and the written objection to the parish governing authority within 10 calendar days after the date the objection was filed.

Proposed law provides that the merits of the objection shall be decided by the parish governing authority, which decision shall be subject to review by the La. Tax Commission, or its successor, on request of either the tax debtor or the objecting political subdivision. That decision shall be subject to appeal to the district court. The review and appeal shall be in accordance with the procedures established by law, the La. Tax Commission rules, or ordinance of the parish governing authority for the review and appeal of the correctness of an assessment made by the assessor.

Proposed law provides that if no objection is filed, the payment of taxes shall be postponed. If an objection is filed, payment of taxes shall be postponed until all objections are finally decided by the parish governing authority or the La. Tax Commission.

Proposed law provides that the postponed taxes shall be due upon the death of the taxpayer and shall be paid by the succession representative. Proposed law further provides that, if the homestead is owned by the community, the postponed taxes shall be due upon the death of the surviving spouse and shall be paid by the succession representative.

Proposed law provides that the postponed taxes shall be due when the taxpayer vacates or sells the property. If the homestead is owned by the community, the postponed taxes shall be due at such time that the surviving spouse vacates or sells the property.

Proposed law provides that all the postponed taxes may be paid at any time prior to the death of the taxpayer or prior to the time that the property is sold or vacated.

Proposed law provides that the unpaid balance of the postponed taxes shall bear interest from the date on which the original tax bill was due until paid at the rate of judicial interest payable annually. Proposed law further provides that no other penalties shall be charged

when the postponed taxes are collected and paid without the necessity of a tax sale.

Proposed law provides that, if the postponed taxes are not timely paid, all of the unpaid postponed taxes shall become due immediately, and the property shall be sold at a tax sale for the balance of all taxes, interest, and penalties.

Proposed law provides that when all postponed taxes and interest have been paid, the tax debtor may cancel the lien at the tax debtor's expense.

Proposed law provides that the tax collector shall prepare a separate written list of all persons whose payment of taxes were postponed.

Proposed law provides that proposed law shall take effect and become operative for all taxable periods beginning after December 31, 2014, but only if and when the proposed amendment contained in Senate Bill No. 104 of this 2013 R.S. is adopted at the statewide election to be held on November 4, 2014, and becomes effective.

(Amends R.S. 44:4.1(B)(32); adds R.S. 47:2130.1)