

2022 Regular Session

SENATE BILL NO. 241

BY SENATOR ALLAIN

TAX/TAXATION. Provides for alternatives in lieu of payment under protest for certain ad valorem taxes. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 47:2134(E)(1) and enact R.S. 47:1989(G) and 2134(F), relative

3 to security required for challenging the correctness or legality of ad valorem tax

4 assessments; to provide that a payment under protest is not required to appeal the

5 correctness of an assessment to the Louisiana Tax Commission; to provide for the

6 posting of a bond or other security in lieu of a payment under protest for challenges

7 to the legality of an assessment; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:2134(E)(1) is hereby amended and reenacted and R.S. 47:1989(G)

10 and 2134(F) are hereby enacted to read as follows:

11 §1989. Review of appeals by tax commission

12 \* \* \*

13 **G. A taxpayer challenging the correctness of an assessment who has**

14 **timely filed an appeal with the Louisiana Tax Commission shall either make a**

15 **payment under protest of the disputed amount of tax as provided in R.S.**

16 **47:2134(B)(1) or post security for the disputed amount as provided in R.S.**

17 **47:2134(F).**



1 of commercial bond or other security in an amount determined by the court or  
2 the board to be reasonable security for the amount of unpaid taxes, interest, and  
3 penalties demanded in the assessment or may order the taxpayer to make a  
4 payment under protest in an amount determined in its discretion to be  
5 reasonable security considering the amount of unpaid taxes, interest, and  
6 penalties. The court or board may order that a portion of the unpaid taxes,  
7 interest, and penalties be paid under protest and the balance secured by the  
8 posting of a bond or other security as provided in this Subsection.

9 (4) The posting of a bond or other security or the payment under protest  
10 shall be made no later than thirty days after the mailing of the notice of the  
11 decision of the court or the Board of Tax Appeals authorizing the posting of  
12 bond or other security or requiring that a payment under protest be made.

13 (5) If the taxpayer timely files the suit or any petition or rule referred to  
14 in this Subsection, no collection action shall be taken in connection with the  
15 assessment of taxes, interest, and penalties that are the subject of the taxpayer's  
16 cause of action, unless the taxpayer fails to post bond or other security or make  
17 the payment under protest required by the court or board. The collector shall  
18 be permitted to file a reconventional demand against the taxpayer in the cause  
19 of action. A collector may procure an appraisal or conduct discovery concerning  
20 the value and validity of security offered prior to the date for filing the  
21 collector's response or opposition to a rule set for hearing under this Subsection.

22 (6) To the extent not inconsistent with this Subsection, the nature and  
23 amount of the bond or security and the procedures for posting bond or  
24 providing other security shall be consistent with the provisions for providing  
25 security in connection with a suspensive appeal under the Code of Civil  
26 Procedure.

27 (7) This Subsection shall not apply to amounts of tax that are not in  
28 dispute and are not the subject of a correctness or legality challenge.

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The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Curry J. Lann.

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DIGEST

SB 241 Engrossed                      2022 Regular Session                      Allain

Present law requires the payment under protest of the disputed amount of tax when a taxpayer challenges the correctness of an ad valorem tax assessment or the legality of an ad valorem tax assessment.

Proposed law provides that a taxpayer challenging the correctness of an assessment who has timely filed an appeal with the Louisiana Tax Commission shall either make a payment under protest of the disputed amount of the tax or post security for the disputed amount.

Proposed law provides for an alternative method of providing security in lieu of a payment under protest in the case of a taxpayer filing a legality challenge with a court or the Board of Tax Appeals.

Proposed law authorizes the taxpayer, on or before the date on which the taxes are due, to file a rule to set bond or other security with the court or the board which shall be set for hearing within 30 days.

Proposed law authorizes the court or the board to order that a portion of the disputed amount be paid under protest and the balance secured by the posting of a bond or other security.

Proposed law authorizes the collector to file a reconventional demand against the taxpayer in the cause of action in which a bond or alternative security is provided and further provides that the collector may procure an appraisal or conduct discovery concerning the value and validity of security offered.

Proposed law requires that the posting of a bond or other security for ad valorem tax challenges shall be consistent with the provisions for providing security in connection with a suspensive appeal under the Code of Civil Procedure.

Proposed law does not apply to amounts of tax that are not in dispute and are not the subject of a correctness or legality challenge.

Effective August 1, 2022.

(Amends R.S. 47:2134(E)(1); adds R.S. 47:1989(G) and 2134(F))

Summary of Amendments Adopted by Senate

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

1. Adds provision that proposed law does not apply to amounts of tax that are not in dispute and are not the subject of a correctness or legality challenge.
2. Adds internal references for clarification.
3. Provides for technical changes.