

Regular Session, 2009

ACT No. 507

HOUSE BILL NO. 446

BY REPRESENTATIVE HENRY

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

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AN ACT

To amend and reenact R.S. 47:2062, 2142(A) and (C), 2144, 2145(B), 2153(B)(5), and 2155(A), relative to ad valorem taxes; to provide for the assistance to each parish tax assessor by an attorney or agency; to provide for the collection of penalties; to provide relative to undivided interests in title to tax sale property; to provide for bidding procedures; to provide for the form for tax sale certificates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:2062, 2142(A) and (C), 2144, 2145(B), 2153(B)(5), and 2155(A) are hereby amended and reenacted to read as follows:

§2062. Appointment and compensation of attorney for ~~state~~ parish tax collector

~~A. In the parish of Orleans there shall~~ There may be an attorney at law ~~to be appointed by the Attorney General, or agency~~ whose duty it shall be to aid the parish tax collectors ~~in the parish~~ in the collection of all taxes, ~~and to represent the tax collectors in all suits for the reduction of assessments. that are delinquent and have become final.~~ Upon all taxes and penalties collected through the assistance of such attorney or agency, ~~and in all suits for the reduction of assessments where the party applying for the reduction shall be decreed not entitled to the reduction as claimed by him, the delinquent owing the tax and the party applying for the reduction of assessment~~ the delinquent owing the tax shall pay a commission to such attorney tax collector of ten per centum (10%) calculating same upon the aggregate amount of

1 taxes and penalties so collected and paid over to the tax collector; this attorney's
2 commission shall be paid by the taxpayer and collected by the tax collector as costs
3 at the same time that the taxes, interest, and penalties are collected.

4 B. The provisions of this Section shall not apply to any property tax matter
5 involving correctness or legality challenges.

6 * * *

7 §2142. Movable property; seizure and sale

8 A. The tax collector is authorized to collect the taxes due or which may be
9 due by any person, upon a movable property, for any year past or the current year,
10 either by taking into his possession so much of the movable property as may be
11 required, in his opinion, to realize the amount of the tax or taxes, or by placing a
12 keeper upon the movable property subject to the tax until the day of sale, upon which
13 day so much of the property as may be necessary to realize the tax or taxes, interest,
14 penalties, and costs, for which it has been seized, shall be sold to the highest bidder,
15 without appraisalment and without redemption; ~~However~~ however, after the tax
16 collector has seized the movable property, as above set out, he shall ascertain the
17 amount of taxes due for the past year by reference to the assessment roll, and for the
18 current year by fixing the same value or percentage of value as was used by the state
19 and the parish in the year preceding on like property, and by applying to that value
20 the rate of taxation applied to property of the same class in the preceding year.

21 * * *

22 C. On the expiration of three days after the date of giving notice as provided
23 in Subsection B of this Section, the tax collector shall advertise, in the manner
24 provided for judicial sales of movable property, that he will sell so much of the
25 property so seized as may be necessary to pay all the taxes, interest, penalties, and
26 costs for which the seizure had been made. The sale shall be made without
27 appraisalment and without redemption.

28 * * *

1 §2144. Movable property; summary seizure to secure payment

2 The tax collector shall seize the movable property of any tax debtor without
3 notice when he believes that such seizure is necessary to enable him to collect any
4 tax due by the debtor, and he shall make such seizure whenever he has good reason
5 to believe that the tax debtor will conceal, part with, or dispose of the movable
6 property, which fact must be made to appear by the affidavit of the tax collector, or
7 one of his deputies; he shall advertise the property in the manner provided for in
8 judicial sales and shall sell, for cash, cashier's check, certified check, money order,
9 or wire transfer, without appraisalment, the least amount of the property seized which
10 any bidder will buy for the amount of the taxes, interest, penalties, and costs.

11 §2145. Movable property; additional sanction for tax collection

12 * * *

13 B. If the collector cannot make a seizure of the movable property liable for
14 the tax assessed against it, either because of the nature of the property assessed or
15 because the owner or his representative holds it in his possession or under his control
16 in such a manner that the tax collector cannot lay hands upon it and refuses on
17 demand to deliver the same to the tax collector, the tax collector shall have the power
18 to seize any other property belonging to the tax debtor, or he may take into the court
19 having jurisdiction of the subject matter a summary rule upon the person assessed
20 or his representative, as the case may be, returnable in five days, in vacation as well
21 as term time, to compel the delivery to him of said property or so much thereof, if
22 the same be divisible in kind, as may be necessary to realize at public sale the
23 amount of the taxes, costs, and penalties. All answers to rules shall be in writing and
24 shall set forth specifically all defenses relied on by the tax delinquent and shall be
25 made on or before the time in which the rule is made returnable. If the tax collector
26 employs the services of an attorney to bring a summary rule to compel delivery of
27 property, the tax debtor shall pay the sum of twenty percent of the taxes, penalties,
28 and interest due by the debtor, as attorney fees, which amount shall be collectable in
29 the same manner as the taxes, interest, penalties, and costs due by such debtor.

30 * * *

1 shall relate in substance a brief history of the proceedings had, shall describe the
 2 property, state the amount of the taxes, interest, penalties, and costs and the bid made
 3 for the property, and the payment made to him in cash, cashier's check, certified
 4 check, money order, credit card, or wire transfer, or other payment method, shall sell
 5 tax sale title, and shall conclude the sale with the statement that the property shall be
 6 redeemable at any time during the applicable redemptive period beginning on the day
 7 when the tax sale certificate is filed with the recorder of conveyances in the parish
 8 in which the property is located. The tax sale certificate shall contain the full name
 9 and address of the tax sale purchaser. The tax sale certificate shall be sufficient if
 10 it is in the following form:

"Tax Sale Certificate

[Name of Political Subdivision]

v.

[Name of Tax Debtor]

State of Louisiana

Parish of _____

City of _____

To: _____

19 BE IT KNOWN AND REMEMBERED, that, I, [Name of tax collector], Tax
 20 Collector in and for the [Name of political subdivision], in the name of the [name of political
 21 subdivision], and by virtue of the authority in me vested by the constitution and laws of the
 22 State of Louisiana and in pursuance of the requirements of those laws, having mailed and
 23 published the notice required by law and having strictly complied with each and every
 24 requirement of the laws relating to delinquent taxes and tax debtors and to seizures,
 25 advertisements, and sale of tax sale title to the property in full, did in the manner prescribed
 26 by law, advertise and list in [name of appropriate journal for legal notices] the property to
 27 be sold for delinquent property taxes with interest and costs for the year(s) of _____ in
 28 the [place of sale] on [dates of publication], beginning at ten o'clock A.M., giving notice in
 29 the issues of the newspaper and in said list as advertised the following described immovable
 30 property appearing in the name of _____.

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Printed Name:

[Name of Political Subdivision]

By: _____"

* * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____