
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 871 Original

2024 Regular Session

Henry

Abstract: Provides with respect to procedures for the collection of delinquent ad valorem taxes and statutory impositions, conducting tax auctions, issuance of tax auction certificates, and the redemption of certain property.

Present constitution and present law require property subject to ad valorem taxes to be listed on the assessment rolls at its assessed value which is a percentage of its fair market value. Requires all property subject to taxation to be reappraised and valued at intervals of not more than four years. Present law requires personal property to be reappraised and valued each year and real property to be reappraised and valued at least every four years.

Present law requires assessors in each parish to prepare the assessment rolls as soon as the assessment lists have been approved by the parish governing authorities. Further requires each assessor to complete and file the parish tax roll on or before the Nov. 15th each calendar year. Present law requires an assessor to use reasonable efforts to list on the tax roll all co-owners of record or if there has been a tax sale to a party other than a political subdivision, the tax sale purchaser and other owners, to the extent their interests were sold at tax sale. Present law authorizes, if requested to do so by a tax debtor, an assessor to make a separate assessment for undivided interests in each parcel.

Proposed law retains present law as it pertains to the deadlines for preparing assessment rolls but changes present law by eliminating the requirement for an assessor, in cases of a tax sale, to use reasonable efforts to list on the tax roll the tax sale purchaser and other owners, to the extent their interests were sold at tax sale. Proposed law removes authorization for an assessor, if requested to do so by a tax debtor, to make a separate assessment for undivided interests in each parcel.

Present law defines a "statutory imposition" as ad valorem taxes and any imposition in addition to ad valorem taxes that are included on the tax bill sent to the tax debtor.

Present law defines a "tax sale" as the sale or adjudication of tax sale title to property pursuant to present law (R.S. 47:2154 and 2196) and "tax sale title" as the set of rights acquired by a tax sale purchaser or, in the case of adjudicated property, on the applicable political subdivision. Further defines a "tax sale certificate" as the written notice evidencing a tax sale to be filed in accordance with present law (R.S. 47:2155 and 2196).

Present law defines a "tax sale party" as the tax notice party, the owner of property, including the owner of record at the time of a tax sale, as shown in the conveyance records of the appropriate parish, and any other person holding an interest, privilege, or other encumbrance on the property,

including a tax sale purchaser.

Proposed law changes present law with respect to "tax sale" and "tax sale certificate" to specify that those definitions only apply to the sale or adjudication of tax sale title to property and a tax sale certificate under former provisions of law in favor of terms such "tax auction" and "tax auction certificate" as defined in proposed law.

Proposed law expands the definition of a "tax sale party" to include a "tax auction party" and the purchaser of a tax auction certificate at a previous auction or sale, as shown in the mortgage and conveyance records of the appropriate parish, and other interested parties whose identities and whereabouts are reasonably ascertainable and whose interest may be terminated by execution of a judgment.

Present law defines "tax sale property" as property for which tax sale title is sold pursuant to present law (R.S. 47:2154) and a "tax sale purchaser" as the purchaser of tax sale property or the purchaser's successors and assigns. Further defines "tax sale title" as the rights acquired by a tax sale purchaser or, in the case of adjudicated property, of the applicable political subdivision.

Proposed law repeals the definition of "tax sale property" and specifies that a "tax sale purchaser" is a person or entity who purchased the tax sale property at a tax sale conducted after Jan. 1, 2009, but before July 1, 2024. Further changes the definition of "tax sale title" to repeal references to adjudicated property and to limit the rights acquired by a tax sale purchaser pursuant to the law in effect after Jan. 1 2009, but before July 1, 2024.

Proposed law defines a "delinquent obligation" as the statutory impositions included in a tax bill that are not paid by the last day to pay ad valorem taxes before they become due, also known as the "delinquency date", plus interest, costs, and penalties that may accrue in accordance present law and proposed law.

Proposed law defines a "tax auction" as the sale of a delinquent obligation and a "tax auction certificate" as the written instrument evidencing the delinquent obligation and lien and privilege assigned to a tax auction purchaser to be filed in accordance with present law and proposed law. Further defines a "tax auction purchaser" as the purchaser of the tax auction certificate or his successors or assigns.

Proposed law makes changes throughout present law, including forms and affidavits, relative to the assessment and payment of ad valorem property taxes, the filing of tax rolls by assessors, judicial review of certain assessment actions, tax sales, adjudicated property, from "tax sale" to "tax auction", from "tax sale title" to "tax auction certificate", and from "taxes" to "statutory impositions" in order to conform present law to proposed law.

Present law provides that the purpose of present law as it relates to ad valorem taxes and rights of property owners is to encourage the payment and efficient collection of property taxes, satisfy the requirements of due process, provide a fair process and statutory price for the redemption of tax sale and adjudicated properties, and encourage the return of tax sale and adjudicated properties to

commerce without unnecessary public expense, through clear procedures that allow interested persons to carry out title searches and notification procedures necessary to ensure due process in order to secure merchantable title to those properties.

Proposed law retains present law but adds the following purposes:

- (1) Clarify that a tax auction purchaser acquires the delinquent obligation and the lien and privilege securing it and does not acquire title, possession, or ownership of the tax debtor's property.
- (2) Provide foreclosure procedures to enforce the lien and privilege evidenced by a tax auction certificate.
- (3) Provide procedures to execute the foreclosure judgment to affect the seizure and sale of the property.
- (4) Protect the property owner's right to claim the value of the surplus equity in the property.
- (5) Retain traditional procedures governing tax sales, adjudications, and redemptions in this state to ensure a tax debtor has three years to redeem before the tax auction purchaser can institute foreclosure litigation minimizing the legal costs passed onto the tax debtor during the redemptive period; provide a notice of delinquency to the tax debtor prior to the tax auction and requires post-tax auction to all tax auction parties; require that all tax auction parties are named in the foreclosure lawsuit to allow for the bringing of nullity claims; and to allow the parties, regardless of the outcome of any nullity claim, to make a claim to the proceeds resulting from the foreclosure sale.

Present law prohibits a tax sale from transferring or terminating the property interest of any person in tax sale property or adjudicated property until that person has been notified and both the redemptive period and any right held by that person to assert a payment or redemption nullity have terminated.

Proposed law retains present law but specifies that no *tax auction* shall terminate the interest of any person in *tax auction* property or adjudicated property until that person has been notified and both the redemptive period and any right held by that person to assert a payment or redemption nullity have terminated.

Present law provides that a tax sale confers on the tax sale purchaser only tax sale title and does not confer on the tax sale purchaser the right of possession of tax sale property that is occupied by the owner and does not confer on the tax sale purchaser the right to make improvements or charge rental or lease payments to the owner or occupants of the tax sale property. Further provides that if the tax sale property is not redeemed within the redemptive period, then at the termination of the redemptive period, tax sale title transfers to its holder, ownership of the tax sale property, free of the ownership and other interests and claims held by all duly notified persons. Tax sale title is fully transferable and heritable, but any successor of a tax sale title takes it subject to any existing right to redeem the

property, or to assert a nullity, to the extent and for the period of time that the right would have existed in the absence of the transfer or succession.

Proposed law retains present law but specifies that a *tax auction* confers on the *tax auction* purchaser only a *tax auction certificate* and does not confer on the *tax auction* purchaser the right of possession of *tax auction* property that is occupied by the owner and does not confer on the *tax auction* purchaser the right to charge rental or lease payments to the owner or occupants of the *tax auction* property or to make improvements to the property unless specifically authorized by law. If the *tax auction certificate* is not redeemed within the redemptive period, then at the termination of the redemptive period the tax auction purchaser may bring a lawsuit to foreclose on the lien and privilege acquired at the tax auction. The *tax auction certificate* is fully transferable and heritable, but any successor of a *tax auction certificate* takes it subject to any existing right to redeem the property, or to assert a nullity, to the extent and for the period of time that the right would have existed in the absence of the transfer or succession.

Present law provides that a person who acquires ownership of property through a tax sale title takes the ownership subject to any interests that are not terminated. Other than taking subject to those interests, the acquiring person's ownership of the tax sale property after termination of the redemptive period is not affected by any lack of notice to the holders of those interests.

Proposed law repeals present law.

Present law provides that except for acts or omissions that result in redemption or payment nullities, the provisions of present law concerning notices or procedures required in connection with a tax sale provide a ground for nullifying the tax sale, the transfer at the end of the redemptive period of the ownership of property to which tax sale title has been issued or the transfer or termination of any duly notified person's interest in the tax sale property or the adjudicated property.

Proposed law changes present law by providing that except for acts or omissions that result in redemption or payment nullities, the provisions of present law concerning notices or procedures required in connection with a *tax auction* provide a ground for nullifying the *tax auction certificate*. Unless a nullity claim is timely raised in response to a *tax auction* foreclosure proceeding, the *tax auction* purchaser is entitled to a judgment of foreclosure ordering the sale and seizure of the property, regardless of the sufficiency of the notice provided. Regardless of notice, the tax debtor has a claim to the surplus sale proceeds generated by the seizure and sale of the property, subject to the rights of other creditors.

Present law provides that the interest on all ad valorem taxes which are delinquent shall begin on the first calendar day following the deadline for payment of taxes, and shall bear interest from that date until paid, at the rate of 1% per month. In the case of an erroneous assessment and adjustment by the tax commission, the tax debtor has 15 days after the date of receipt of notice of the revised assessment to pay the adjusted amount without interest penalty. If the address on the tax roll is incorrect and the tax debtor does not receive a timely notice, the tax collector may extend the deadline for the debtor to pay the interest penalty for 15 days.

Proposed law changes present law to specify that all *statutory impositions* shall bear interest from the delinquency date until paid at the rate of 1.25% per month on a non-compounding basis. In the case of an erroneous assessment and adjustment by the tax commission, the tax debtor has 15 days after the date of receipt of notice of the revised assessment to pay the adjusted amount without interest *and* penalty.

Proposed law provides that failure to pay the total statutory impositions, interest, and costs due shall cause the delinquent obligation to be offered for sale at a tax auction. Further provides that the delinquent obligation evidenced by the tax auction certificate shall be secured by a lien and privilege that shall have priority over all mortgages, liens, and other privileges encumbering the property.

Present law requires tax collectors to use reasonable efforts to send each tax notice party written notice by U.S. mail of taxes due at the address listed for each tax debtor on each tax roll. Further provides for the information required in the written notice including a request for the tax debtor to return the written notice to the tax collector with remittance and a reminder of the date that taxes become delinquent and that interest will accrue on the taxes after the date the taxes become delinquent.

Proposed law retains present law but specifies the the notice applies to *statutory impositions* due taxes at the address listed for each tax debtor on each tax roll. Further specifies that the notice shall be sent to each tax debtor at the address listed on the tax roll and to each other tax notice party at the address given in the request for notice. The notice shall inform the tax debtor of the date that *statutory impositions* must be paid, that interest will accrue on the statutory impositions at the rate of 1.25% per month on a non-compounding basis from the delinquency date, and that a 6% penalty will be added to the statutory impositions if the statutory impositions remain unpaid and a tax auction occurs. The tax notice shall also indicate if there was a prior unredeemed tax sale or tax auction in connection with the immovable property.

Present law prohibits a tax sale after three years from Dec. 31st of the year in which ad valorem taxes were due have passed, except for adjudicated property. However, the prescription to have a tax sale shall be suspended during the pendency of any suit which prevents the collection of the taxes, and the time of the suspension shall be excluded from the computation of the three years.

Proposed law changes present law to provide that a *tax auction* may be conducted with regard to any delinquent *statutory impositions* due, but once a tax auction has taken place, the tax collector may no longer collect or auction any prior delinquent statutory impositions.

Present law authorizes any person who has a claim against a political subdivision for ad valorem taxes erroneously paid to present the claim to the La. Tax Commission within three years of the date of the payment, in a form and with documentation. If the claim is made for taxes erroneously paid on property that would not qualify for a homestead or other exemption, the collector shall note and record the amount of the refund or repayment owed and is charged with ensuring that the amount of erroneously paid taxes is credited against future ad valorem tax liability of that property. No interest shall accrue or be due on any refund or repayment. A political subdivision may use an alternative procedure for providing refunds of ad valorem taxes erroneously paid if the alternative

procedure has been approved by the tax commission

Proposed law changes present law by specifying that claims for erroneously paid ad valorem taxes applies to all *statutory impositions* and also extends to claims for ad valorem taxes erroneously paid on property when an improvement is erroneously assessed on a property with no improvement. Proposed law requires a tax collector to issue a refund to the tax auction purchaser if the tax auction purchaser paid he erroneous amount.

Present law requires a tax collector to cancel a tax sale if it is determined, within the redemptive period, that the statutory impositions on property subject to a tax sale were paid prior to the tax sale or that the tax sale was conducted in violation of a stay under federal bankruptcy law. If a tax sale is cancelled, the tax collector shall reimburse the tax sale purchaser the bid price and shall record the cancellation with the recorder of conveyances in the parish in which the property is located.

Proposed law changes present law to require a tax collector to cancel a *tax auction* if it is determined, within the redemptive period, that the statutory impositions on property subject to the *tax auction* were paid prior to the *tax auction* or that the *tax auction* was conducted in violation of a stay under federal bankruptcy law. If a *tax auction* is cancelled, the collector shall immediately notify the *tax auction* purchaser in writing of the cancellation, and shall reimburse the *tax auction* purchaser the bid price within 30 days of executing the cancellation instrument. The tax collector is required to record the cancellation with the recorder of conveyances in the parish in which the property is located within 15 days of executing the cancellation instrument.

Present law requires the tax collector to send notice by certified mail no later than the first Monday of Feb. of each year to each tax notice party when the tax debtor has not paid all the statutory impositions assessed on immovable property. The notice shall inform the person that the statutory impositions must be paid within 20 days after the sending of the notice or before the tax sale is scheduled, or the tax sale title to the property will be sold according to law. After the property goes to tax sale and within 90 days of the expiration of the redemptive period, the tax collector is required to provide written notice by first class mail to each tax notice party that tax sale title to the property has been sold at tax sale and that after the expiration of the redemptive period, the property cannot be redeemed.

Proposed law retains present law as it pertains to the deadline for sending notice to the tax debtor but changes present law as it relates to the content of the notice to provide that the statutory impositions on the immovable property must be paid within 20 days after the sending of the notice or before the *tax auction* is scheduled, or the tax collector will advertise for sale by public auction the delinquent obligation and the lien and privilege securing it, and that the collector shall issue in favor of the winning bidder and record in the mortgage records a *tax auction certificate*.

Present law provides that if the written notice by certified mail is returned for any reason, the tax collector is required to demonstrate a reasonable and diligent effort to provide notice of the tax sale to the tax debtor. To demonstrate a reasonable and diligent effort, the tax collector is required to attempt to deliver notice of the delinquent taxes and tax sale by first class mail to the last known address of the debtor and take at least three additional steps to notify the tax debtor such as

contacting the tax assessor of the parish in which the property is located, examine mortgage or conveyance records of the parish where the property is located, or post the notice at the property.

Proposed law changes present law by providing that if the written notice by certified mail is returned for any reason, the tax collector shall resend the notice by first class mail to the property address, addressed to "occupant" and shall take additional steps to notify the tax debtor of the delinquent statutory impositions and pending auction. Proposed law reduces the additional steps that the tax collector must take to notify the tax debtor from three to two and adds as an additional step to the options contained in present law the option of the tax collector to review the local telephone directory or internet for the tax debtor.

Present law requires the notice of the tax sale to be sent by certified mail or commercial courier to all addresses discovered through the steps provided for in present law. The tax collector is authorized to recover all reasonable and customary costs actually incurred in executing the notice.

Proposed law changes present law by requiring the notice of the *tax auction* to be sent by first class mail to all addresses discovered through the steps provided for in present law that the tax collector reasonably believes may be valid addresses for the tax debtor. Proposed law retains present law as it relates to the tax collector recovering all reasonable and customary costs actually incurred in executing the notice.

Present law provides that failure of the debtor to receive actual notice of the tax sale shall not affect the validity of the tax sale when the tax collector demonstrates a reasonable and diligent effort to provide notice of the tax sale. If the debtor is deceased, the notice of tax sale and the reasonable and diligent effort to provide notice of the tax sale shall be sufficient if sent to the succession representative, if applicable, or to a curator as provided by law.

Proposed law repeals present law.

Present law provides that no later than the first Monday of March each year, or as soon thereafter as possible, the tax collector shall search the mortgage and conveyance records of tax sale eligible property to identify tax sale parties. Further requires that prior to the tax sale, the tax collector shall send a written notice by certified mail, return receipt requested, to each identified tax sale party. The notice shall advise the person that it is required that the statutory impositions on the immovable property be paid within 20 days after sending of the notice or the tax sale title to the property will be sold according to law.

Proposed law repeals present law.

Proposed law provides that failure of the tax collector to provide notice or to properly advertise the tax auction as required by present law and proposed law shall not be a basis to nullify the tax auction.

Present law requires the tax collector to shall seize, advertise, and sell tax sale title to the property on or before May 1st of the year following the year in which the taxes were assessed, or as soon thereafter as possible. Further requires the tax sale to be conducted on any weekday within the legal

hours for judicial sales, with bidding opening not earlier than 8:00 a.m. and closing no later than 8:00 p.m. If a tax sale is conducted by using an online or electronic bidding process that is conducted over the course of multiple days, bids may be placed on any day at any time on any sale property upon which bidding has not closed, provided that all sales close on a weekday within the legal hours for sale. The price shall be for the amount of statutory impositions due on the property, costs, and interest.

Proposed law retains present law relative to the timing and limitations of conducting *tax auctions* but changes present law by removing authority for the tax collector to seize the property subject to the delinquent obligation for statutory impositions and the lien and privilege securing. Proposed law further changes present law to provide that the tax auction certificate price shall be for the amount of statutory impositions due on the property, together with any applicable costs, interest, and penalty. The price may include any prior delinquent statutory impositions but once a tax sale or tax auction has taken place, the tax collector may no longer collect prior years of delinquent statutory impositions. Once a tax auction takes place the prior delinquent statutory impositions may not be collected through subsequent tax bills or through a subsequent tax auction.

Proposed law provides that the first auction participant to place the bid in time wins the bid and requires the tax collector to file a tax auction certificate in favor of the winning bidder in the mortgage records of the parish in which the property is situated and to deliver a recorded copy of the tax auction certificate to the winning bidder. The tax auction certificate shall be prima facie evidence of the validity of the delinquent obligation, the lien and privilege, the auction, and the assignment to the winning bidder.

Proposed law requires the amount owed to the tax auction purchaser to be secured by a lien and privilege on the immovable property described in the tax auction certificate. Further provides that the lien and privilege shall have priority over all mortgages, liens, and privileges encumbering the property including prior tax auction certificates. When parish and city tax auction certificates are issued on the same property in the same year, they shall be designated parallel certificates, and neither shall have legal priority over the other.

Present law requires a tax collector to authenticate and file, in person or by deputy, in the political subdivision's name, a tax sale certificate to purchasers of any property to which tax sale title was sold for taxes. The collector is required to describe the property, state the amount of the taxes, interest, penalties, and costs and the bid made for the property, and the payment made to him, and shall conclude the sale with the statement that the property is redeemable at any time during the applicable redemptive period beginning on the day the tax sale certificate is filed with the recorder of conveyances in the parish in which the property is located.

Proposed law changes present law by requiring the tax collector to authenticate and file, in person or by deputy, in the political subdivision's name, a *tax auction certificate* to the winning bidder in which the tax collector shall describe the property, state the amount of the winning bid and amounts attributable to statutory impositions, interest, penalties, and costs, and the payment made to him. The tax collector is further required to deliver a *tax auction certificate* to the winning bidder and shall conclude the auction with the statement that the statutory impositions, together with interest

at the rate set forth in present law, penalties, and costs may be paid at any time during the applicable redemptive period beginning on the day when the *tax auction certificate* is filed with the recorder of mortgages in the parish in which the property is located.

Present law provides that the tax sale certificate contemplated in present law is considered a tax deed for purposes of present constitution.

Proposed law repeals present law.

Proposed law provides that a tax auction certificate shall prescribe within seven years from the date of recordation in the parish mortgage records unless a proceeding to foreclose the tax auction certificate is filed or unless otherwise interrupted under law. The filing of the foreclosure suit shall interrupt and continue to suspend the prescriptive period as long as a foreclosure suit is not deemed abandoned under present law. Proposed law requires prescription to be suspended with the filing of a bankruptcy suit until the debtor is discharged or the automatic stay is lifted. After the stay is lifted, the tax auction purchaser shall have 90 days or the amount of time remaining pursuant to the provisions of present law, whichever is greater, to file a proceeding to foreclose the tax auction certificate. The prescriptive period may be interrupted or suspended when otherwise authorized by law.

Proposed law provides that if no foreclosure suit has been filed within seven years of the tax auction certificate being recorded or the foreclosure suit is deemed abandoned, the tax debtor, or anyone with a recorded ownership interest, lien, mortgage, encumbrance, or any other interest in the property may request the clerk of court to cancel the tax auction certificate. Cancellation is not authorized if the prescriptive period is interrupted or suspended.

Present law provides that within the applicable redemptive period, the tax sale purchaser may send a written notice to any or all tax sale parties notifying the parties of the sale. Further provides for the form and content of the notice. Present law requires the notice to inform tax sale parties that failure to redeem the property prior to the expiration of the applicable redemptive period will terminate the right to redeem the property, and the purchaser will have the right to seek confirmation of the tax title and take actual possession of the property.

Proposed law retains present law as it relates to the form and content of the notice; however, proposed law specifically provides that the notice shall inform the *tax auction* parties that the failure to redeem the property prior to the expiration of the applicable redemptive period will terminate the right to redeem the property, and the purchaser will have the right to obtain judgment foreclosing on the lien and privilege evidenced by the *tax auction certificate* and ordering the sale and seizure of the property to satisfy the debt.

Proposed law provides that when notices are sent pursuant to present law and proposed law, the tax auction purchaser shall submit an affidavit of costs and fees to the tax collector attesting to the costs incurred including title research fees, postage, and administrative fees, which shall not exceed \$500, and the tax collector shall include the sworn costs in the redemption price. If not timely redeemed, the costs incurred by the tax auction purchaser in providing notice shall be owed and reimbursable

to the tax auction purchaser in the foreclosure judgment.

Present law provides that when necessary to comply with an order enforcing property standards, when presented with the order and a certified copy of a tax sale certificate, a judge shall grant an ex parte order of seizure and possession, commanding the sheriff to seize the property and place the purchaser in actual possession. A purchaser may take actual possession without the order with the consent or acquiescence of the tax debtor, provided no force or violence is used. The purchaser shall have a privilege on the property for the costs of complying with the order of the political subdivision. To preserve this privilege, the purchaser shall file the writ of possession with the recorder of mortgages of the parish in which the property is located within 15 days after its issuance. The effect of recordation shall cease one year after the date of filing the writ of possession, unless a statement of privilege referencing the writ and detailing the costs is filed with the recorder of mortgages before the expiration of one year from the date of filing the writ.

Proposed law changes present law to provide that when necessary to comply with a *notice* or order enforcing property standards, when presented the notice or order and a certified copy of a tax *auction certificate* to a court, the court shall grant an ex parte order of seizure and possession, commanding the sheriff to seize the property and place the *tax auction* purchaser in actual possession. Further provides that when the property is vacant or abandoned and the tax auction purchaser is in possession of a notice or order advising of property standards violations, the tax auction purchaser may take peaceful possession of the property without a court order and without the consent or acquiescence of the tax debtor, provided no force or violence is used.

Proposed law further provides that the tax auction purchaser shall not be permitted to alter or repair the property beyond the scope of the notice or order issued by the political subdivision. If the tax debtor contacts the tax auction purchaser about regaining possession of the property, the tax auction purchaser shall relinquish possession to the tax debtor within 30 days of receiving written demand from the tax debtor.

Proposed law provides that the tax auction purchaser shall have a privilege on the property for the costs of complying with the notice or order regardless of whether possession is obtained through court order or peaceful possession.

Proposed law provides that to preserve the privilege, the tax auction purchaser shall record an Affidavit of Costs to Preserve with the recorder of mortgages of the parish in which the property is located. A copy of the property standards notice or order shall be filed as an exhibit to the affidavit. An amended affidavit may be recorded on an annual basis to include additional costs incurred in preserving the property.

Proposed law provides that at the time of redemption, the tax collector shall contact the tax auction purchaser to request an updated affidavit. If a redemption occurs before the tax auction purchaser files the initial Affidavit of Costs to Preserve, the tax auction purchaser shall subsequently record the affidavit, and the tax debtor shall be required to reimburse the tax auction purchaser the costs outlined in the affidavit.

Proposed law requires, upon request, for a tax collector to inform the tax auction purchaser of any person or entity requesting notice in accordance with the provisions of present law.

Proposed law provides that after a tax auction and issuance of a tax auction certificate, all subsequent statutory impositions on the property shall continue to be assessed to and paid by the tax debtor. If the statutory impositions remain unpaid by the tax debtor by the delinquency date, the tax auction purchaser may pay the statutory impositions. A tax auction purchaser who pays statutory impositions on behalf of a tax debtor shall be entitled to collect interest on the amount paid at the rate of 1.25% per month on a non-compounding basis and a 6% penalty. If a subsequent statutory imposition is paid by the tax auction purchaser after the tax auction certificate is redeemed, the tax collector shall issue a refund of the subsequent statutory imposition within thirty days of written demand being made by the tax auction purchaser.

Proposed law requires a tax collector to mail a hard copy of the tax bill to the tax auction purchaser at the time the bill is mailed to the tax debtor unless the bills are available online.

Present law provides that all redemptive periods provided in present constitution shall be preemptive.

Proposed law changes present law to provide that all redemptive periods provided for in present law shall be preemptive and that the redemptive period for tax auctions expire three years from the date of recordation of the tax auction certificate in the parish mortgage records.

Present law requires redemptions to be made through the tax collector of the appropriate political subdivision or the state land office. Payment shall include all statutory impositions accruing before the date of payment with 5% penalty and simple interest accruing at 1% per month, as well as all other sums required to be paid. The tax collector is required to promptly remit the redemption payment to the tax sale purchaser and the register shall promptly deposit the redemption payment in the state treasury.

Proposed law changes present law as it relates to required payments to require the redemption payment to include the amount paid at auction, any penalty and interest accruing on the statutory impositions, all costs and fees incurred by the tax auction purchaser in sending notice of the right to redeem the tax auction certificate, and all other sums required to be paid.

Proposed law requires a tax collector to make a reasonable effort to notify the redeeming party of the existence of any additional tax auction certificates within the tax collector's authority that remain outstanding on the property. If the redemptive period has expired, the tax collector may not accept any redemption payments.

Present law requires payment to also include the actual costs incurred by the political subdivision for preparation and filing of redemption certificates, the cost of mail, notice, publication of notice, personal service of notice, appraisal, and costs associated with the determination of tax sale parties and their notification. However, the actual cost of preparation and filing of redemption certificates shall not exceed \$200. The political subdivision may also require the payment of all amounts accrued under other governmental liens as of the date of payment.

Proposed law retains present law but adds the cost of the tax auction certificate and certificates of no bid to costs that are included in the payment and excludes costs for appraisals from being included in the payment. Proposed law additionally increases the total reimbursable payments from not to exceed \$200 to not to exceed \$300 exclusive of filing and recording fees.

Present law requires the collector to issue a redemption certificate in the name of the tax debtor upon payment of the redemption costs and file the redemption certificate in the appropriate conveyance records.

Proposed law requires the collector to issue a redemption certificate in the name of the tax debtor with 30 days of receiving payment of all amounts due and to remit payment to the tax auction purchaser. Further requires the tax collector to record the redemption certificate in the appropriate parish's mortgage records.

Present law provides that after expiration of the redemptive period, an acquiring person may institute an ordinary proceeding against the tax sale parties whose interests the petitioner seeks to terminate. The petition shall contain information such as a description of the property, the time and place of the sale, the name of the officer who made the sale, the page and record book and date of filing of the tax sale certificate, and notice that the title and full ownership in the property will be confirmed unless a proceeding to annul is instituted within six months after the date of service of the petition and citation. Present law further provides for service of the petition and citation, and in cases when tax titles have been quieted by prescription of five years, and authority of the petitioner to file a notice of lis pendens with the recorder of mortgages of the parish in which the property is located.

Proposed law changes present law to provide that after expiration of the three-year redemptive period, a redemption is no longer available. After the redemptive period expires, unless settlement has been reached, the tax auction purchaser may institute an ordinary proceeding against the tax auction parties to foreclose on the lien and privilege evidenced by the tax auction certificate. Further requires the petition to advise that the delinquent obligation and the lien and privilege evidenced by the tax auction certificate will be confirmed by judgment of the court, which may be executed by seizure and sale of the property unless a proceeding to annul is instituted within six months after the date of service of the petition and citation. If settlement is reached with the tax auction purchaser, the parties may agree not to proceed with the judicial sale of the property.

Proposed law requires the petition to advise that in addition to the redemption price, the judgment shall order reimbursement to the tax auction purchaser for all costs incurred pursuant to present law and proposed law and reasonable attorney's fees. Further requires the petition to provide notice that the lien held by the tax auction purchaser shall be superior to interests of all other creditors. If named creditors fail to answer or otherwise appear in the suit within six months after the date of service of the petition and citation to assert a valid claim to the sale proceeds, their interest in the property shall be terminated.

Proposed law provides that when there are parallel certificates, the tax auction purchaser filing the foreclosure suit must name the parallel certificate holder as a party to the suit. Further provides for process and requirements for the filing of an Affidavit of Statutory Impositions, interest, and penalty

into the record.

Proposed law requires the petition to advise that there will be 18 months from the date of the seizure and sale to claim any surplus sale proceeds deposited into the registry of the court by the sheriff, after which the proceeds shall be disbursed to the tax auction purchaser who filed the foreclosure suit. Further requires judgment to be rendered if no proceeding to annul the tax auction has been instituted after the lapse of six months after the date of service of petition and citation, judgment shall be rendered confirming the lien and privilege evidenced by the tax auction certificate.

Proposed law requires the judgment in the foreclosure action to be executed by a writ of sale and seizure, and the sale shall be scheduled after the suspensive appeals delays for the judgment have expired. Proposed law establishes rules for the judicial sale executing the foreclosure including rules related to appraisal and minimum bids. If an extra-judicial settlement is reached, the tax auction purchaser shall cancel the sale and ask the recorder of mortgages to cancel and release the judgment ordering judicial sale of the property.

Proposed law requires the proceeds of the sale to be distributed by the sheriff in accordance with the judgment, and any unclaimed or surplus proceeds shall be deposited into the registry of the court. Distribution of the judgment amount to the tax auction purchaser shall be made immediately following the sale, regardless of any dispute that may arise between other parties over allocation of the surplus sale proceeds. If surplus proceeds are not timely claimed by the tax debtor, they shall be disbursed to the tax auction purchaser.

Proposed law that failure of the tax collector to provide notice of the delinquency is not a basis to nullify the tax auction certificate.

Present law requires an action to annul a tax sale on grounds of a redemption nullity to be brought before the earlier of six months after a person is notified using a notice sent between the time that the redemptive period ends and five years after the date of the recordation of the tax sale certificate or if a person is notified more than five years after the date of the recordation of the tax sale certificate, 60 days after the person is notified. Further provides that an action to annul a tax sale on grounds of a payment nullity shall be brought before the later of five years after the recordation of the tax sale certificate or, if the person bringing the action was not notified at least 60 days before the end of that five-year period, then within 60 days after the date that the person was notified.

Proposed law changes present law by requiring an action to annul a tax auction on grounds of a redemption nullity to be brought before the earlier of six months after a person is served with suit and citation in a procedure to foreclose a tax auction certificate or if a person is served with the foreclosure suit and citation more than five years after the date of the recordation of the tax auction certificate, 60 days after the person is served. Further provides than an action to annul a tax auction on grounds of a payment nullity shall be brought before the later of five years after the recordation of the tax auction certificate unless a suit to foreclose on a tax auction certificate has been filed or if the person is served with the foreclosure suit and citation more than five years after the date of recordation of the tax auction certificate, 60 days after the date that the person was served.

Proposed law provides that a redemption or payment of a nullity claim is a personal claim that can only be brought on behalf of oneself and may not be raised on behalf of another tax auction party.

Present law provides that a judgment based on a payment nullity not only reinstates the interest of the tax debtor, or person claiming ownership through the tax debtor in the property, but also reinstates all interests in the property otherwise terminated or erased to the extent the interest has not otherwise terminated pursuant to its terms or by operation of law.

Present law provides that a judgment annulling a tax sale or other transfer to an acquiring person based on a payment nullity shall not have effect until all statutory impositions for which the sale was made, all subsequent statutory impositions and all other governmental liens, including interest and penalties, and 10% per year interest on the statutory impositions are paid. However, these costs are not required to be paid if proof of payment of the statutory impositions or governmental liens is declared. A judgment annulling a tax sale or other transfer to an acquiring person based on a redemption nullity shall not have effect until all statutory impositions forming the basis of the initial tax sale, all subsequent statutory impositions and all governmental liens, all costs, a 5% penalty and 12% interest per year at a rate of 1% per month on all statutory impositions are paid.

Proposed law retains present law as it pertains to a judgment annulling a tax auction or other transfer based on a *payment nullity* but changes present law as it pertains to a judgment annulling a tax sale or other transfer to an acquiring person based on a *redemption nullity* by deleting the requirement that all costs be paid prior to the judgment taking effect and changing the penalty from a 5% penalty and 12% interest per year at a rate of 1% per month on all statutory impositions to a 6% penalty and non-compounding interest at a rate of 1.25% per month on all statutory impositions.

Proposed law further requires all amounts to be paid to the tax auction purchaser and within 30 days of remitting payment, the nullifying party shall file an affidavit with supporting documents evidencing payment into the suit record proving that full and final payment has been remitted to the tax auction purchaser. The judgment of nullity shall take effect when the affidavit and supporting documents are filed.

Present law provides that upon conclusion of a nullity action, the court shall either issue a preliminary order that the tax sale will be declared a nullity or render judgment dismissing the action with prejudice which shall be a final judgment for purposes of appeal. The tax sale purchaser shall be presumed to be a good faith possessor of the property. Within 15 days after rendering a judgment, the party claiming costs shall submit proof of costs by affidavit or other form of evidence. Further provides for procedure and deadlines for the court to hear a contest on costs.

Proposed law changes present law by providing that if grounds for a nullity are proven, the court shall issue an interim judgment that the tax auction is declared a nullity. The interim judgment shall be a final judgment for purposes of appeal. However, if grounds for a nullity are not proven, the court shall dismiss the nullity action with prejudice. For purposes of cost reimbursement, the tax auction purchaser shall be presumed to be a good faith possessor of the property. Proposed law further provides for procedure and deadlines for the court to hear a contest on costs which includes a party contesting the costs to file a request for a rule to show cause within 15 days after the filing

an affidavit of costs into the record and a requirement that the hearing or rule to show cause on the contest of costs shall be heard within 45 days after the filing of the affidavit of costs.

Present law provides forms for tax collectors to use to notify tax notice parties of taxes due, forms for the postponement of taxes due to calamities, publication and advertisement of to debtors of the delinquency, tax sale certificates, post-sale notice, redemption certificates, and notice of delinquencies and tax sales.

Proposed law adds changes to the forms to conform with the provisions of proposed law.

Present law (R.S. 47:2271-2273) provides, in addition to all other procedures, after the expiration of the applicable redemptive period, for an acquiring person to protect himself from eviction from the tax sale property to which ownership or tax sale title has been transferred by filing a petition for monition in the district court of the parish in which the property is located. Present law provides for requirements that the petition for monition must contain and documents that must be attached to the monition petition. Present law requires the clerk, on application of the buyer or donee, to grant monition in the name of the state and to affix the seal of the court to the petition.

Proposed law repeals present law.

Present law (R.S. 47:2274) authorizes a petitioner to file a notice of lis pendens of the monition proceeding with the recorder of mortgages of the parish in which the property is located. Further provides that a transfer, mortgage, lien, privilege, or other encumbrance filed after the filing of the notice of lis pendens shall not affect the property.

Proposed law repeals present law.

Present law (R.S. 47:2275-2277) provides for written notice and publication requirements that a petitioner filing for monition must comply in order to give all tax sale parties notice that the petitioner intends to terminate their interest in the property. Present law requires the petitioner for monition to file an affidavit stating how the tax sale parties whose interests the petitioner intends to be terminated were identified, how the addresses of each tax sale party were obtained, how the notice was sent, the results of sending the written notice, and the dates of publication. Further provides for deadlines for parties to show cause why grounds exist for a nullity.

Present law includes forms for the notice, publication of the notice, and the affidavit.

Proposed law repeals present law.

Present law (R.S. 47:2278-2280) authorizes the party obtaining the monition to apply to the court which rendered the monition to confirm the title to and full ownership in the property and confirm the sale after expiration of the applicable time periods set forth in present law. Further provides that the filing of the affidavit with the recorder of mortgages of the parish in which the property is located shall operate as a cancellation or termination of all statutory impositions due to the donor political subdivision prior to the date of the original acquisition by a tax sale purchaser of adjudicated

property, all statutory impositions and all other interests, liens, and encumbrances arising prior to the original sale of adjudicated property to the acquiring person, and all interests, liens, and other encumbrances recorded against the property and listed in the affidavit.

Proposed law provides that when no opposition to the confirmation of the sale is made, the costs of the proceeding shall be paid by the party who prays for the monition. However, the petitioner shall be liable for and indemnify the recorder of mortgages and any other person relying on the cancellation, termination, or erasure by affidavit for any damages that suffer if the recorded affidavit contains materially false or incorrect statements that cause the recorder to incorrectly cancel, terminate, or erase any interest as provided in the affidavit.

Proposed law repeals present law.

(Amends R.S. 47:1998(A)(1)(b)(ii) and (2), (B)(3), (D), and (F), 2121, 2122, 2126, 2127, 2130, 2131, 2132(A)(1) and (C), 2133, 2134, 2151-2156, 2158, 2158.1, 2159, 2160-2163, 2241- 2245, 2266, 2286, 2287, 2289, 2290, and 2291; Adds R.S. 47:2266.1;-Repeals R.S. 47:2128, 2157, and 2271-2280)