

DIGEST

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SB 505 Reengrossed

2024 Regular Session

Miller

Present law uses the term "taxes" throughout Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950.

Proposed law amends present law and replaces "taxes" with "statutory impositions" throughout present law except when specifically referring to ad valorem taxes. "Statutory impositions" is defined in present law to include ad valorem taxes and other charges included on a property tax bill.

Present law provides that the purpose of present law includes the following:

- (1) Encourage the payment and efficient collection of property taxes.
- (2) Satisfy the requirements of due process.
- (3) Provide a fair process and statutory price for the redemption of tax sales and adjudicated property.

Proposed law repeals present law.

Present law defines the terms "adjudicated property", "duly notified", "governmental lien", "redemption nullity", "send", "tax sale party", "tax sale property", "tax sale purchaser" and "tax sale title".

Proposed law repeals these definitions from present law.

Proposed law defines "delinquent obligation" as statutory impositions included in the tax bill that are not paid by the due date, plus interest, costs, and penalties that may accrue.

Proposed law defines "forbidden purchase nullity" as a nullity of an action conducted in violation of proposed law.

Proposed law defines "tax auction party" as the tax notice party, the owner of the property as shown in the conveyance records, and any other person holding an interest in the property.

Proposed law defines "tax lien auction" as the sale of a delinquent obligation.

Proposed law defines "tax lien certificate" as the written instrument evidencing the delinquent obligation and the lien and privilege securing it that identifies the holder thereof.

Proposed law defines "termination price" as the amount calculated pursuant to proposed law that is required to be paid in order to terminate a tax lien certificate.

Present law provides that delinquent ad valorem property taxes bear interest at a rate of 1% per month.

Proposed law provides that the 1% interest per month is on a non-compounding basis and allows for the imposition of a 5% penalty if statutory impositions remain unpaid after 90 days. Further provides that failure to pay statutory impositions allows the tax lien to be sold at tax lien auction and that a tax lien has priority over all mortgages, liens, privileges, and security interests. Proposed law authorizes bidders to submit bids reducing the amount of interest to be assessed on the amount paid at the tax lien auction in increments not less than 0.1%; however, the lowest interest rate that can be bid is 0.7% per month on a non-compounding basis.

Present law requires the tax collector to mail property tax bills to the tax debtor and each tax notice party. If the property is sold at a tax sale, future tax bills are required to be sent to the tax sale purchaser.

Proposed law retains present law requirement that property tax bills be mailed to the tax debtor and each tax notice party. Further requires the tax bill to inform the tax debtor if there is any unredeemed tax sale certificate or tax lien certificate.

Present law requires the tax collector to send written notice to each tax notice party when the tax debtor has not paid all the statutory impositions that have been assessed on immovable property. The notice informs recipients that if the statutory impositions are not paid within 20 days of sending of the notice, the tax sale title to the property will be sold.

Proposed law retains present law notice requirement to each tax notice party. Further requires the tax collector to include that assessment constitutes a lien and that if not paid within 20 days that the lien will either be retained by tax collector or sold at auction.

Present law requires the tax collector to seize, advertise, and sell the tax sale title to the property upon which delinquent taxes are due.

Proposed law repeals present law and requires the tax collector to advertise for sale by public auction the delinquent obligation for statutory impositions and the lien securing it.

Present law requires the tax collector to resend notice by first class mail to the tax debtor when the certified mail is returned. Further requires the tax collector to take additional steps to notify including:

- (1) Review the local telephone directory or internet for the tax debtor.
- (2) Contact the assessor for potential updated addresses or other properties assessed in the tax debtor's name.
- (3) Examine the mortgage and conveyance records of the parish where the property is located to determine whether there are any other transactions pertaining to the tax debtor.
- (4) Attempt personal or domiciliary service of the tax bill.
- (5) Post a notice of the tax lien auction at the property.
- (6) Perform a computer search of digitized records and databases of the clerk of court or sheriff's office for addresses of other properties that may be assessed in the tax debtor's name.

Proposed law retains present law and requires that notice be re-sent to the occupant of the property as well.

Present law provides for the adjudication of property and the effect of the adjudication of the property.

Proposed law repeals present law.

Proposed law authorizes delinquent obligations related to immovable property encumbered by a tax lien certificate issued to and held by a political subdivision to be excluded from a tax lien auction at the election of the political subdivision. As soon as practical after being directed by the political subdivision to exclude a delinquent obligation from the tax lien auction, the tax collector shall file a tax lien certificate in favor of the political subdivision in the mortgage records.

Proposed law provides that a delinquent obligation and the lien and privilege evidenced by the tax lien certificate prescribes seven years after recordation unless an action to enforce the tax lien is filed. Provides that if no action is filed within seven years, the recorder of mortgages shall cancel the inscription upon request of an interested party. Upon expiration

of this time period, the recorder of mortgages shall cancel the inscription of the tax lien certificate from the records upon request of an interested party.

Proposed law prohibits an action to collect the delinquent obligation or enforce the lien and privilege from being instituted more than seven years after the recordation of the tax lien certificate. This period shall be preemptive; however, prescription shall be suspended during any period in which the tax lien certificate is issued to and held by a political subdivision. A tax lien certificate holder may cause prescription to be suspended while enforcement of the tax lien certificate is prohibited by a bankruptcy stay by recording notice of the pendency of the bankruptcy action in the mortgage records in the parish in which the property is located.

Proposed law provides that after three years from recordation of certificate, the tax lien certificate holder can institute proceedings to enforce a tax lien.

Proposed law requires that at least 180 days prior to filing an action to enforce the tax lien, the tax lien certificate holder shall send notice to all tax lien certificate holders and to all tax auction parties. Proposed law further provides that if the tax auction party is a mortgage holder, notice shall be provided by certified or registered mail or commercial courier, as defined in present law.

Proposed law authorizes the tax lien certificate holder to make necessary repairs to the property to comply with a notice or order of the political subdivision charged with enforcement of property standards or when authorized by a court.

Proposed law authorizes a political subdivision to adopt ordinances regarding the public sale of immovable property that is encumbered by a tax lien certificate which has been held by the political subdivision for not less than three years after the recordation of the tax lien certificate in the mortgage records of the parish in which the immovable property is located in order to satisfy the debt secured by the tax lien certificate and any other statutory impositions related to the property and due to any political subdivision.

Proposed law authorizes the governing authority of a political subdivision to set a minimum bid for the assignment of tax lien certificates issued to the political subdivision to be sold at a public sale. However, the minimum bid for the sale of immovable property to enforce a tax lien certificate held by the political subdivision shall not be less than two-thirds of the market value of the immovable property as established by the assessor.

Proposed law provides for a procedure to recognize the amount due under a tax lien certificate. Proposed law provides that a petitioner is entitled to recover court costs and reasonable attorney's fees incurred in prosecution of the action. Further provides that except for good cause shown, the recoverable amount of attorney's fees shall not exceed the greater of 25% of the total amount of the obligation secured by the lien that is sought to be collected or \$2,500.

Proposed law provides for the termination of the tax lien certificate by paying the termination price.

Proposed law provides that a judicial sale terminates all interests in the immovable property filed prior to the filing of the tax lien certificate except the following:

- (1) Building restrictions, condominium declarations, or other common ownership interest regimes.
- (2) Dedications in favor of political subdivisions, the public, or public utilities.
- (3) Immobilizations of manufactured homes.
- (4) Integrated coastal protection as defined in R.S. 49:214.2 or a project listed in the comprehensive master coastal protection plan as defined in R.S. 49:214.2.
- (5) Levee or drainage projects by the departments, agencies, boards, or commissions of the state of Louisiana and their political subdivisions.

- (6) Mineral rights.
- (7) Pipeline servitudes.
- (8) Predial servitudes.

Effective Jan. 1, 2026, if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as Senate Bill No. 119 of this 2024 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:1993, 2058, the headings of Chapter 5 and Part I of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950, R.S. 47:2122, 2124, 2126, 2127, 2130, 2132-2137, 2151, 2153-2156, 2158-2160, 2162, 2163, 2201, 2202(A), 2203, 2204, 2206, the heading of 2207, 2208, 2209, 2211, R.S. 47:2241-2247, the headings of Part VI and Subpart A of Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950; Adds R.S. 47:2127.1, 2140, 2151.1, 2153.1, 2160.1, 2164, 2207.1, 2241.1, 2266.1, 2267, and 2268; Repeals R.S. 47:2121, 2123, 2128, 2131, 2152, 2157, 2161, 2196, 2197, 2266, and 2271-2280)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Changes references in bill from taxes to statutory impositions to keep the bill terminology consistent.
2. Provides reference to termination periods in addition to redemption periods and clarifies when each term is to be used.
3. Modifies internal statutory references.
4. Changes reference from the term "delinquency date" and phrase "date that interest began to accrue" to "day after the due date".
5. Makes technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the reengrossed bill:

1. Add provisions relative to excluding certain delinquent obligations from tax lien auctions.
2. Make changes to certain tax forms.
3. Set the lowest interest rate that may be bid at auction at 0.7% per month on a non-compounding basis.
4. Add language relative to suspension of the prescriptive period to bring certain actions.
5. Add provisions for notice requirements for mortgage holders.
6. Add provisions relative to the termination of a tax lien certificate and the debt it secures.
7. Authorize political subdivisions to adopt ordinances regarding the public sale of immovable property.
8. Require the governing authority of a political subdivision to set the minimum bid amount for the sale of immovable property to enforce a tax lien certificate held

by a political subdivision at not less than 2/3 of the market value of the immovable property as established by the assessor.

9. Set the recoverable amount of attorney's fees a petitioner is entitled to recover at the greater of 25% of the total amount sought to be collected or \$2,500. Provide that this amount may be altered if good cause is shown.
10. Delete provision that if a person holding an interest in the property other than a certificate holder, tax sale purchaser, or tax certificate purchaser is the winning bidder at the judicial sale, then only the amount necessary to satisfy the costs of sale, the commission and the amounts due to the plaintiff certificate holder need be delivered to the sheriff and the effect of the judicial sale shall be the same as if the tax lien certificate was terminated immediately prior to the rendering of the judgment being enforced.
11. Change the applicability of proposed law from Jan. 1, 2025 to Jan. 1, 2026.
12. Add an effective date of Jan. 1, 2026 if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as SB No. 119 of this 2024 R.S. of the Legislature is adopted at a statewide election and becomes effective.