

First Extraordinary Session, 2005

HOUSE BILL NO. 102

BY REPRESENTATIVE HUTTER

TAX/AD VALOREM-EXEMPTION: Establishes certain procedures for the assessment of damaged property in the event of public calamity or disaster (Item #40)

1 AN ACT

2 To amend and reenact R.S. 47:1978 and to enact R.S. 47:1989.2 and 1992.1, relative to ad  
3 valorem taxation; to provide for the listing and assessing of property damaged by  
4 public calamity or disaster; to provide for review of appeals by the Louisiana Tax  
5 Commission of property assessed as a result of a public calamity or disaster; to  
6 provide relative to the inspection of assessment lists compiled as a result of a public  
7 calamity or disaster; to provide relative to notification and review of assessments by  
8 board of review as a result of such listing; to provide for an effective date; and to  
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:1978 is hereby amended and reenacted and R.S. 47:1989.2 and  
12 1992.1 are hereby enacted to read as follows:

13 §1978. Listing and assessing of ~~overflowed lands~~ property damaged by public  
14 calamity or disaster

15 A. Whenever lands or other property, including buildings, structures, or  
16 personal property, are overflowed by the waters of the Mississippi River, or by the  
17 waters of any other river, lake, bayou, or backwater, or are damaged by rain, wind,  
18 hurricane, tornado, or other public calamity, general conflagration, or a disaster as  
19 defined in the Louisiana Homeland Security and Emergency Assistance and Disaster  
20 Act, the assessors within whose parishes such lands or other property may be

1       situated, shall ~~re-assess~~ assess such lands or property for ~~their actual cash value, and~~  
2       ~~in so doing they shall specially take~~ the year in which the damage has occurred at the  
3       percentage of fair market value provided in the constitution, by taking into  
4       consideration all the damages to the lands, buildings, structures, or other property  
5       and the depreciation of the value of such land or other property caused by ~~the~~  
6       ~~overflow~~ any of the events described in this Section. The assessors throughout the  
7       state shall make these ~~reassessments~~ assessments whether the time fixed by law for  
8       filing assessment rolls has elapsed or not, ~~and in case of re-assessments, as provided~~  
9       ~~by this Section~~, When such assessments are done, the assessments shall be subject  
10      to review and shall be filed by the assessor as set forth in R.S. 47:1989.2 and 1992.1.  
11      In the alternative, the assessor shall prepare supplemental rolls of ~~overflowed and~~  
12      ~~other overflowed~~ the lands or other property damaged as the result of the events  
13      described in this Section, which they shall file in the manner provided by law for  
14      ~~general assessment rolls; such re-assessment shall be subject to the same rights as to~~  
15      ~~contest as to assessment generally~~ rolls shall be subject to review and shall be filed  
16      by the assessor as set forth in R.S. 47:1989.2 and 1992.1.

17             B. In the instance wherein the assessor has completed the public exposure  
18      and board of review of the assessment roll for the year, the assessor may issue  
19      change orders for the assessment of the damaged property in compliance with  
20      Subsection A of this Section in lieu of changing his existing assessment roll or the  
21      filing of a supplemental roll. If the assessor issues a change order as a result of the  
22      events described in this Section, such change order shall be signed by the assessor  
23      or his deputy and the property owner or owners and shall contain a declaration that  
24      the property owner or owners agree to the change in assessment and that the property  
25      owner or owners waive any further contest as to the accuracy of the assessment. In  
26      the event the change order is not signed by the property owner or owners, the owner  
27      or owners shall have ten days from the receipt of the tax bill evidencing the change  
28      in assessment to contest the assessment with the assessor. The tax bill shall be sent  
29      to the taxpayer by registered or certified mail, return receipt requested. If the

taxpayer is dissatisfied with the determination of the assessor, the taxpayer shall have ten days from notification of the determination by the assessor to contest the assessment before the Louisiana Tax Commission and, if dissatisfied with the ruling of the commission, shall have ten days to file suit in a court of competent jurisdiction to contest the accuracy of the assessment.

C. The assessment provided for in this Section shall not be considered an implementation of the reappraisal and valuation provisions of Article VII, Section 18(F) of the Constitution of Louisiana, nor shall such assessment result in the adjustment of ad valorem tax millages pursuant to Article VII, Section 23 of the Constitution of Louisiana.

\* \* \*

§1989.2. Review of appeals by tax commission of property assessed as a result of

R.S. 47:1978(A)

A. When assessments are done as the result of R.S. 47:1978(A), the assessment lists of the parish or district shall be subject to review as set forth in this Section.

B. Within seven days of receipt of the assessment lists as certified by the local board of review, the Louisiana Tax Commission shall conduct public hearings to hear real and personal property appeals of taxpayers, bona fide representatives of an affected tax-recipient body, or assessors from the action of the board of review.

C. The Louisiana Tax Commission shall consider the appeal of any taxpayer, bona fide representative of an affected tax-recipient body, or assessor dissatisfied with the determination of a local board of review. All documents, except confidential forms as provided in R.S. 47:2327, filed in connection with any appeal shall be available for public inspection during the regular business hours of the Louisiana Tax Commission.

D. All such hearings shall be conducted in accordance with rules and regulations established by the Louisiana Tax Commission.

E.(1) All decisions by the tax commission are final unless appealed to the district court within seven days.

(2) The proceedings in such suit shall be tried by preference, whether or not out of term time, at such time as fixed by the district court. No new trial or rehearing shall be allowed.

(3) Any appeal from a judgment of the district court shall be heard by preference within thirty days of the lodging of the record in the court of appeal. The appeal shall be taken ten days from the date the judgment of the district court is rendered. If such appeal is timely filed, any amount of taxes that were paid under protest pursuant to R.S. 47:1856(E) shall remain segregated and invested pursuant to that Subsection and no bond or other security shall be necessary to perfect such appeal.

(4) In the event the supreme court grants a writ of certiorari, the court shall  
hear the appeal on the next regular docket of the court.

F. The assessment lists, together with any changes in connection therewith,  
shall be certified and returned to each assessor no later than ten days following the  
conclusion of the public hearing held by the Louisiana Tax Commission.

\* \* \*

§1992.1. Inspection of assessment lists compiled as a result of R.S. 47:1978(A);  
notification and review of assessments by board of review as a result of such  
listing

A.(1) After each assessor has prepared and made up the lists showing the assessment of immovable and movable property in and for his parish or district as a result of R.S. 47:1978(A), his lists shall be exposed daily for inspection by the taxpayers and other interested persons for the period provided for in Subsection F of this Section. Each assessor shall give notice of such exposure for inspection in the official journal of the parish in which the assessor is located no more than fourteen days and no less than seven days prior to the first day the lists will be open for public inspection.

1           B. After the lists of each assessor have been exposed for inspection for the  
2           period provided for in Subsection F of this Section, the lists as changed by each  
3           assessor shall be certified to the board of review within three days, which board shall  
4           conduct public hearings for all persons or their representatives desiring to be heard  
5           on the assessments of immovable and movable property. Notice of such public  
6           hearings shall be given by each assessor in the official journal of the parish in which  
7           the assessor is located no more than fourteen days and no less than seven days prior  
8           to the first day that the board of review shall convene.

9           C. The board of review shall consider the written or oral complaint of any  
10          person desiring to be heard who has timely filed the report or reports as required by  
11          Chapter 6 of Subtitle III of this Title, R.S. 47:2301 et seq., and who has provided to  
12          the board of review at least five days prior notice either through appearing in person  
13          at the board of review's office or by filing such complaint by means of certified mail  
14          which shall be received at the board office no later than five days prior to the public  
15          hearing or by facsimile transmission to the board office which shall be received at  
16          the board office no later than five days prior to the public hearing. Contrary  
17          provisions of law notwithstanding, the written or oral complaint of any bona fide  
18          representative of an affected tax recipient body shall be considered by the board of  
19          review provided such representative has provided notice to the board in the manner  
20          provided in this Section and has furnished the owner's name and address, a  
21          description of each property contested, and the assessment number of each property  
22          contested. Nothing contained herein shall be construed to authorize a tax recipient  
23          body to challenge the assessment of all property within its taxing jurisdiction in a  
24          single complaint. The validity of each assessment shall be determined on its own  
25          merits. The board of review may make a determination to increase or decrease the  
26          assessment of immovable or movable property made by the assessor in accordance  
27          with the criterion set forth in R.S. 47:1978(A).

28          D. All determinations by the board of review shall be final unless appealed  
29          to the Louisiana Tax Commission. Any taxpayer or assessor dissatisfied with the

1 determination of the board of review may appeal to the Louisiana Tax Commission  
2 within five days after the determination of the board of review in accordance with  
3 rules and regulations established by the Louisiana Tax Commission.

4 E. On the tenth day after the board of review shall have commenced the  
5 public hearings as provided herein, the assessment lists, together with any changes  
6 in connection therewith, shall be certified and sent to the Louisiana Tax Commission  
7 within three days.

8 F. The period for inspection of the assessment lists as provided for in this  
9 Section in each parish shall be for a period of seven days following the completion  
10 of the listing of assessments by the assessor as a result of R.S. 47:1978(A).

11 G. The assessor shall file the assessment roll with the Louisiana Tax  
12 Commission no later than sixty days after the board of review has sent the  
13 assessment list to the Louisiana Tax Commission.

14 Section 2. This Act shall become effective upon signature by the governor or, if not  
15 signed by the governor, upon expiration of the time for bills to become law without signature  
16 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If  
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18 effective on the day following such approval.

---

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

---

Hutter

HB No. 102

**Abstract:** Establishes certain procedures for the assessment of damaged property in the event of public calamity or disaster.

Proposed law requires that assessors of parishes where land or property damaged or destroyed during a disaster or emergency declared by the governor is located to assess such land or property for the year in which the damage has occurred as provided in the constitution by taking into consideration all damages to land or property and the depreciation of such land or property caused by the disaster or emergency. Provides that the assessments shall be made whether the time provided by law for filing assessment rolls has elapsed or not. Provides that the assessments are subject to review and filing requirements as provided in present law or authorizes assessors to prepare supplemental rolls of damaged or destroyed property.

Proposed law provides that if the assessor has completed public exposure and the board of review of the assessment roll for the year, the assessor may issue change orders for the assessment of damaged or destroyed property in lieu of existing roll or filing supplemental roll. Provides procedures for filing change orders.

Proposed law requires that assessment rolls for damaged and destroyed property be subject to review. Requires public hearings within seven days of receipt of the assessment lists.

Proposed law provides for appellate procedure through the Louisiana Tax Commission (LTC) and provides that decisions by the LTC are final unless appealed to district court within seven days. Provides procedure for appeal to district court.

Proposed law provides for inspection of assessment lists. Requires that lists be exposed daily for seven days.

Proposed law requires that the lists, after exposure, be certified to the board of review within three days and requires the board to conduct public hearings to discuss lists. Provides procedure for board to consider written or oral complaints. Provides that determinations by the board of review are final unless appealed to the LTC within five days.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:1978; Adds R.S. 47:1989.2 and 1992.1)