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## DIGEST

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Jane Smith

HB No. 720

**Abstract:** Enacts the Tax Delinquency Amnesty Act of 2009.

Proposed law enacts the "Louisiana Tax Delinquency Amnesty Act of 2009" which requires the Dept. of Revenue (DOR) to develop and implement a tax amnesty program to be effective for a period not to exceed two consecutive calendar months between July 1, 2009, and June 30, 2010, at the discretion of the secretary. The tax amnesty program shall apply to taxes for which the department has issued a proposed assessment, notice of assessment, bill, notice, or demand for payment on or after July 1, 2001, and before January 1, 2009, or to taxes that became due on or after July 1, 2001 and before Jan. 1, 2009.

Proposed law provides for DOR to publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

Proposed law provides that participation in the amnesty program shall be conditioned upon agreement of the taxpayer that the right to protest or initiate an administrative or judicial proceeding for any tax period upon which amnesty is granted is barred.

Proposed law requires that taxpayers involved in field audits or litigation that participate in the amnesty program to agree to abide by DOR's interpretation of the law with respect to issues involved in the audit or litigation resolved through amnesty for all taxable periods beginning in 2010, 2011, and 2012, or be charged the negligence penalty under present law. Taxpayers involved in litigation that elect to participate in amnesty shall agree to pay all applicable attorney fees pursuant to present law and its own litigation costs before amnesty can be applied for.

Proposed law provides that amnesty shall only be granted for eligible taxes to eligible taxpayers who apply for amnesty during the amnesty period on forms prescribed by DOR and who pay all of the tax, all fees and costs, if applicable, and half of the interest due upon filing the amnesty application. If the amnesty application is approved, the secretary shall waive the remaining half of the interest and all of the penalties associated with the tax periods for which amnesty is applied. No installment agreements will be entered into for tax periods that are approved for amnesty.

Proposed law prohibits amnesty from being granted to taxpayers who are parties to any criminal investigation or criminal litigation in any court of the U.S. or La. for nonpayment, delinquency, or fraud in relation to any state tax administered by the department. A taxpayer who willfully delivers or discloses any false or fraudulent application, document, return, or other statement to

the department in connection with an amnesty application shall be ineligible for amnesty and shall be subject to the fraud penalty under present law or a penalty of \$10,000, whichever is greater.

Proposed law provides that if, following the termination of the tax amnesty period, DOR issues a deficiency assessment for a period for which amnesty was taken, DOR shall have the authority to impose penalties and institute civil proceedings or criminal proceedings only with respect to the difference between the amount shown on the amnesty application and the correct amount of tax due. Proposed law authorizes DOR to, by regulation, impose after the expiration of the tax amnesty period a cost of collection penalty of 20% of any deficiency assessed for any taxable period due on or after July 1, 2001, and ending before January 1, 2009. This penalty shall be in addition to all other applicable penalties, fees, or costs.

Proposed law provides that for taxable periods beginning on or after January 1, 2010, and before December 31, 2015, taxpayers that participate in amnesty and later fail to comply with any payment and filing provision shall be subject to the negligence penalty under present law or a penalty of \$100, whichever is greater.

Proposed law authorizes DOR to retain from monies collected under the tax amnesty program an amount equal to all penalties waived, an amount equal to the costs for contractual information technology and amnesty program administration services, and an amount equal to any collection fees, legal fees, or any other fees the department incurs that are associated with granting amnesty. Further provides that DOR shall also retain an amount not to exceed \$250,000 for advertising expenses from monies collected from taxes paid pursuant to proposed law.

Proposed law provides that all remaining monies collected under the tax amnesty program shall be paid into the state treasury for credit to the Bond Security and Redemption Fund, and then the state treasurer shall transfer the remaining monies to the State Emergency Response Fund to pay all state obligations associated with Hurricanes Gustav and Ike.

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