SLS 21RS-346 ORIGINAL

2021 Regular Session

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SENATE BILL NO. 123

BY SENATOR CONNICK

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

TAX/AD VALOREM. Provides for notice for seizure and sale of immovable property for nonpayment of taxes. (gov sig)

AN ACT

2 To amend and reenact the introductory paragraph of R.S. 47:2153(A)(1)(a), the introductory paragraph of (A)(1)(c)(i) and (c)(ii) and (iii), the introductory paragraph of (A)(2)(b), 3 and (C)(1) and 2161(A), to enact R.S. 47:2150, and to repeal R.S. 47:2153 4 5 (A)(1)(c)(i)(ee), relative to tax sales of immovable property; to provide certain terms, procedures, conditions, and requirements; to require notices of ad valorem tax 6 7 delinquency be sent by both first class and certified mail; to require post-sale tax 8 notices to be sent to the tax debtor; to provide legislative findings; and to provide for 9 related matters. 10 Be it enacted by the Legislature of Louisiana: 11 Section 1. The introductory paragraph of R.S. 47:2153(A)(1)(a), the introductory paragraph of (A)(1)(c)(i) and (c)(ii) and (iii), the introductory paragraph of (A)(2)(b), and 12 13 (C)(1) and 2161(A) are hereby amended and reenacted and R.S. 47:2150 is hereby enacted to read as follows: 14 15 §2150. Legislative findings; purpose A. The purpose of the tax sale process is to ensure the prompt and timely 16 payment of ad valorem taxes, and not to allow others to take unconscionable 17

1	advantage over Louisiana citizens in financial distress. The sale of immovable
2	property for nonpayment of ad valorem taxes owed to the state or to a parish,
3	municipality, or other political subdivision, should be conducted only as a last
4	and final resort. It is critical that tax collectors remain abreast of the current
5	law and jurisprudence relative to due process.
6	B. (1) All parties who have a legally recognized interest in the property
7	are entitled to substantive and procedural due process of law, regardless of
8	whether title to the immovable property is held in the name of an individual or
9	any other legal entity having the status of a juridical person under the laws of
10	the state of Louisiana.
11	(2) For purposes of this Chapter, a shareholder of a corporation or a
12	member of a limited liability company does not have a legally recognizable
13	interest in immovable property owned by the corporation or the limited liability
14	company.
15	C. In all cases, the record owner or owners of the property, if all are
16	living, competent, and domiciled in this state, or the legal representative of the
17	record owner, if the record owner is deceased, incompetent, or an absentee, is
18	entitled, at a minimum, to timely actual or constructive advance notice, as set
19	forth in this Chapter, of all of the following:
20	(1) The date of the tax sale.
21	(2) The dates of the beginning and end of the redemption period.
22	(3) The consequences of failure to timely redeem the immovable
23	property.
24	D. Whenever any immovable property is sold at tax sale for less than one
25	half of its assessed value, and not redeemed by the record owner at least six
26	months prior to the end of the redemption period, it shall be conclusively
27	presumed for purposes substantive and procedural due process required by law
28	that the record owner of the property is either deceased, legally incompetent,
29	physically or mentally incapable of handling his affairs, or an absentee.

1 \* \* \*

§2153. Notice of delinquency and tax sale

A.(1)(a) No later than the first Monday of February of each year, or as soon thereafter as possible, the tax collector shall send a written notice by **first class mail and a written notice by** certified mail, return receipt requested, to each tax notice party when the tax debtor has not paid all the statutory impositions which have been assessed on immovable property, notifying the person that the statutory impositions on the immovable property shall be paid within twenty days after the sending of the notice or as soon thereafter before the tax sale is scheduled, or that tax sale title to the property will be sold according to law. After the property goes to tax sale and within ninety days of the expiration of the redemptive period, the tax collector shall 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. The notice shall be sufficient if it is in the following form:

\* \* \*

the written notice <u>sent</u> by <u>first class or</u> certified mail is returned for any reason, the tax collector shall 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 shall attempt to deliver notice of the delinquent taxes and tax sale by first class mail to the last known address of the debtor, <u>shall post a notice of tax sale on or near the main entrance of the primary structure on the property</u>, and <u>shall</u> take any three of the following additional steps to notify the tax debtor:

\* \* \*

(ii) The notice of the tax sale shall be sent by <u>first class mail and by</u> certified mail or commercial courier to all addresses discovered through the steps set forth in this Subparagraph. The tax collector may recover all reasonable and customary costs actually incurred in complying with these steps.

1	(iii) Failure of the $\underline{tax}$ debtor to receive actual notice of the tax sale shall not
2	affect the validity of the tax sale when the tax collector demonstrates a reasonable
3	and diligent effort to provide notice of the tax sale as set forth in this Subsection. If
4	the debtor is deceased, the notice of tax sale and the reasonable and diligent effort
5	to provide notice of the tax sale shall be sufficient if to the succession representative,
6	if applicable, or to a curator as provided by law.
7	(2) * * *
8	(b) Prior to the tax sale, the tax collector shall send a written notice by <u>first</u>
9	class mail and by certified mail, return receipt requested, to each tax sale party
10	identified pursuant to Subparagraph (a) of this Paragraph. The notice shall advise the
11	person that it is required that the statutory impositions on the immovable property
12	be paid within twenty days after the sending of the notice or the tax sale title to the
13	property will be sold according to law. This notice shall be sufficient if it is in the
14	following form:
15	* * *
16	C.(1) In the absence of actual notice of the sale <b>by the tax collector</b> to a tax
17	sale party, including a transferee, or the demonstration of a reasonable <b>and diligent</b>
18	effort <b>by the tax collector</b> to provide notice, where the name and address of the tax
19	sale party were reasonably ascertainable or where the transfer was recorded after the
20	tax collector completed his pre-sale tax sale party research, the tax collector shall
21	cancel the sale of the property and refund the tax sale purchaser the tax sale purchase
22	price.
23	* * *
24	§2161. Tax sale title; payment of taxes by purchaser; improvements by tax sale
25	purchaser
26	A. From the date of filing a tax sale certificate selling tax sale title to a tax
27	sale purchaser, all taxes on the property shall, after that date, be assessed to and paid
28	by the remain assessed in the name of the tax debtor, and if transferred, the new
29	or current owner. The tax sale purchaser may pay all taxes on the property until

1 the property, or any part, is redeemed. If redeemed, the person redeeming shall pay 2 all **unpaid** statutory impositions assessed upon the property subsequent to the tax 3 sale to the tax collector and shall reimburse the tax sale purchaser for all taxes paid on the property after the tax sale by the tax sale purchaser as well as any 4 5 costs, interest, and penalties otherwise due. The failure to assess the property in 6 the name of the tax sale purchaser shall not affect the validity of the tax sale. 7 8 Section 2. R.S. 47:2153(A)(1)(c)(i)(ee) is hereby repealed. 9 Section 3. The Louisiana State Law Institute is directed to designate R.S. 47:2150 10 as the first section of Subpart B of Part III of Chapter 5 of Subtitle III of Title 47 of the 11 Louisiana Revised Statutes of 1950. Section 4. This Act shall become effective upon signature by the governor or, if not 12 13 signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become 15

> The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

## DIGEST

SB 123 Original

effective on the day following such approval.

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2021 Regular Session

Connick

Present law provides a general statement of purpose for all provisions related to tax sales and adjudications of all types of property.

Proposed law retains present law and provides legislative findings specifically applicable to tax sales of immovable property.

Present law requires that pre-sale notice be mailed by certified mail, return receipt requested.

Proposed law retains present law certified mail requirement and adds a requirement that certain notices additionally be mailed via first class mail.

<u>Present law</u> requires that the tax collector must demonstrate a reasonable and diligent effort to provide notice of the tax sale to the tax debtor if the mailed notice is returned, and defines reasonable and diligent effort to include taking three of the five following steps:

- Perform a computer search of digitized records and databases of the clerk of court (1) or sheriff's office for addresses of other properties that may be owned by the debtor.
- Contact the tax assessor of the parish in which the property is located for the (2)

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

addresses of other properties that may be owned by the debtor.

- (3) Examine the mortgage or conveyance records of the parish where the property is located to determine whether there are any other transactions pertaining to the property.
- (4) Attempt personal or domiciliary service of the notice.
- (5) Post the notice of tax sale at the property.

<u>Proposed law</u> makes the provision that the tax collector post a notice of tax sale on or near the main entrance of the primary structure on the property mandatory as part of the demonstration of reasonable and diligent effort and retains <u>present law</u> requirement of completing three of the remaining steps.

<u>Present law</u> requires that after a tax sale that ad valorem tax notices be mailed only to the tax sale purchaser, rather than to the owner of the property.

<u>Proposed law</u> requires that after a tax sale, that the ad valorem tax notices continue to be mailed to the owner of the property and further provides that the tax sale purchaser may pay the taxes and upon redemption that the owner must reimburse the tax sale purchaser for any taxes paid.

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

(Amends R.S. 47:2153(A)(1)(a)(intro para), (A)(1)(c)(i)(intro para), (c)(ii) and (iii), (A)(2)(b)(intro para), and (C)(1) and 2161(A); adds R.S. 47:2150; repeals R.S. 47:2153 (A)(1)(c)(i)(ee))