

Regular Session, 2008

HOUSE BILL NO. 337

BY REPRESENTATIVE BURRELL

(On Recommendation of the Louisiana State Law Institute)

TAX/PROPERTY: Provides relative to tax sales and adjudicated property

1 AN ACT

2 To enact a new Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of
3 1950, formerly comprised of Parts I through III, to be comprised of new Parts I
4 through VII; to enact Part I, to be comprised of R.S. 47:2121 through 2124, Part II,
5 to be comprised of R.S. 47:2126 through 2137, Subpart A of Part III, to be
6 comprised of R.S. 47:2141 through 2147, Subpart B of Part III, to be comprised of
7 R.S. 47:2151 through 2163, Subpart A of Part IV, to be comprised of R.S. 47:2196
8 through 2198, Subpart B of Part IV, to be comprised of R.S. 47:2201 through 2211,
9 Subpart C of Part IV, to be comprised of R.S. 47:2231 through 2237, Subpart A of
10 Part V, to be comprised of R.S. 47:2241 through 2245, Subpart B of Part V, to be
11 comprised of R.S. 47:2246 and 2247, Subpart A of Part VI, to be comprised of R.S.
12 47:2266, Subpart B of Part VI, to be comprised of R.S. 47:2271 through 2280, and
13 Part VII, to be comprised of R.S. 47:2286 through 2292, and to repeal R.S. 13:4951,
14 Subparts E, F, and G of Part II of Chapter 6 of Title 33, comprised of R.S. 33:2861
15 through 2892.9, Chapters 13A, 13B, and 13C of Title 33, comprised of R.S.
16 33:4720.11 through 4720.49, and Part II of Chapter 4 of Subtitle III of title 47,
17 comprised of R.S. 47:2101 through 2114; and to repeal former Parts I, II, and III of
18 Chapter 5 of Subtitle III of Title 47, comprised of R.S. 47:2171 through 2194, 2221
19 through 2230, and 2251 through 2262, all relative to the payment and collection of
20 property taxes, tax sales, and adjudicated property; to provide general provisions and

1 definitions; to provide for payment and collection; to provide for tax sales of
2 movable and immovable property; to provide for adjudicated property; to provide for
3 redemptions; to provide procedures to quiet tax title and for actions to annul; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of
7 1950, formerly comprised of Parts I through III, comprised of new Parts I through VII; to
8 enact Part I, comprised of R.S. 47:2121 through 2124, Part II, comprised of R.S. 47:2126
9 through 2137, Subpart A of Part III, comprised of R.S. 47:2141 through 2147, Subpart B of
10 Part III, comprised of R.S. 47:2151 through 2163, Subpart A of Part IV, comprised of R.S.
11 47:2196 through 2198, Subpart B of Part IV, comprised of R.S. 47:2201 through 2211,
12 Subpart C of Part IV, comprised of R.S. 47:2231 through 2237, Subpart A of Part V,
13 comprised of R.S. 47:2241 through 2245, Subpart B of Part V, comprised of R.S. 47:2246
14 and 2247, Subpart A of Part VI, comprised of R.S. 47:2266, Subpart B of Part VI, comprised
15 of R.S. 47:2271 through 2280, and Part VII, comprised of R.S. 47:2286 through 2292, are
16 hereby enacted to read as follows:

17 SUBTITLE III

18 CHAPTER 5. PAYMENT AND COLLECTION PROCEDURE; TAX SALES;

19 ADJUDICATED PROPERTY

20 PART 1. GENERAL PROVISIONS; PURPOSE; DEFINITIONS

21 §2121. Purpose; principles; property rights

22 A. Purpose. The purpose of this Chapter is to amend and restate the law
23 governing the payment and collection of property taxes, tax sales, and redemptions
24 to:

25 (1) Reorganize the prior law into a single comprehensive Chapter, using
26 consistent terminology.

27 (2) Encourage the payment and efficient collection of property taxes.

28 (3) Satisfy the requirements of due process.

1 (4) Provide a fair process and statutory price for the redemption of tax sale
2 and adjudicated properties.

3 (5) Encourage the return to commerce of tax sale and adjudicated properties,
4 without unnecessary public expense, through clear procedures that allow interested
5 persons to carry out the title search and notification procedures considered necessary
6 under contemporary standards of due process to acquire merchantable title to those
7 properties.

8 (6) Avoid the imposition on the public of extensive title search and
9 notification expenses for properties that are redeemed or that fail to attract any party
10 willing to bear the expenses of establishing merchantable title.

11 (7) Retain, to the extent not inconsistent with the preceding purposes, the
12 traditional procedures governing tax sales, adjudications, and redemptions in this
13 state.

14 B. Effect of tax sale on property interest. No tax sale shall transfer or
15 terminate the property interest of any person in tax sale property or adjudicated
16 property until that person has been duly notified and both the redemptive period and
17 any right held by that person to assert a payment or redemption nullity under R.S.
18 47:2187 have terminated.

19 C. Tax sale title. (1) A tax sale confers on the tax sale purchaser, or on the
20 political subdivision to which the tax sale property is adjudicated, only tax sale title.
21 If the tax sale property is not redeemed within the redemptive period, then at the
22 termination of the redemptive period, tax sale title transfers to its holder ownership
23 of the tax sale property, free of the ownership and other interests, claims, or
24 encumbrances held by all duly notified persons. Tax sale title is fully transferable
25 and heritable, but any successor of a tax sale title takes it subject to any existing right
26 to redeem the property, or to assert a nullity, to the extent and for the period of time
27 that the right would have existed in the absence of the transfer or succession.

28 (2) A person who acquires ownership of property through a tax sale title
29 takes the ownership subject to any interests that are not terminated in accordance

1 with this Chapter. Other than taking subject to those interests, the acquiring person's
2 ownership of the tax sale property after termination of the redemptive period is not
3 affected by any lack of notice to the holders of those interests.

4 (3) Notwithstanding any provision in this Chapter to the contrary, the
5 following interests affecting immovable property shall not be terminated pursuant
6 to this Chapter to the extent the interests remain effective against third parties and
7 are filed with the appropriate recorder prior to the filing of the tax sale certificate:

8 (a) Mineral rights.

9 (b) Pipeline servitudes.

10 (c) Predial servitudes.

11 (d) Building restrictions.

12 (e) Dedications in favor of political subdivisions, the public, or public
13 utilities.

14 D. Deficiencies in notices or procedures. Except for acts or omissions that
15 result in redemption or payment nullities, none of the provisions in this Chapter
16 concerning notices or procedures required in connection with a tax sale provides a
17 ground for nullifying:

18 (1) The tax sale.

19 (2) The transfer at the end of the redemptive period of the ownership of
20 property to which tax sale title has been issued.

21 (3) The transfer or termination of any duly notified person's interest in the
22 tax sale property or the adjudicated property.

23 §2122. Definitions

24 The following terms used in this Chapter shall have the definitions ascribed
25 in this Section, unless the context clearly requires otherwise:

26 (1) "Acquiring person" means either of the following:

27 (a) A person acquiring tax sale title to a tax sale property.

28 (b) A political subdivision or any other person seeking to acquire or
29 acquiring ownership of adjudicated property.

1 (2) "Adjudicated property" means property of which tax sale title is acquired
2 by a political subdivision pursuant to R.S. 47:2196.

3 (3) "Authenticate" means either of the following:

4 (a) To sign.

5 (b) To execute or otherwise adopt a symbol, or encrypt or similarly process
6 a written notice in whole or in part, with the present intent of the authenticating
7 person to identify the person and adopt or accept a written notice.

8 (4) "Duly notified" means, with respect to a particular person, that an effort
9 meeting the requirements of due process of law has been made to identify and to
10 provide that person with a notice that meets the requirements of R.S. 47:2156, 2157,
11 2206, 2236, or 2275, or with service of a petition and citation in accordance with
12 R.S. 47:2266, regardless of any of the following:

13 (a) Whether the effort resulted in actual notice to the person.

14 (b) Whether the one who made the effort was a public official or a private
15 party.

16 (c) When, after the tax sale, the effort was made.

17 (5) "Governmental lien" means all liens imposed by law upon immovable
18 property in favor of any political subdivision and filed in the mortgage records,
19 including without limitation, those imposed under R.S. 13:2575, R.S. 33:1236, 4752,
20 4753, 4754, 4766, 5062, and 5062.1, other than statutory impositions.

21 (6) "Ordinance" means an act of a political subdivision that has the force and
22 effect of law, including but not limited to an ordinance, a resolution, or a motion.

23 (7) "Owner" means a person who holds an ownership interest that has not
24 been terminated pursuant to R.S.47:2121(C).

25 (8) "Payment nullity" means a nullity arising from payment of taxes prior to
26 a tax sale, including payment based on dual assessment.

27 (9) "Political subdivision" means any of the following to the extent it has the
28 power to levy ad valorem taxes and conduct tax sales for failure to pay ad valorem
29 taxes:

1 (a) The state.

2 (b) Any political subdivision as defined in Article VI, Section 44 of the
3 Louisiana Constitution.

4 (c) Any other agency, board, or instrumentality under Subparagraph (a) or
5 (b) of this Paragraph.

6 (10) "Redemption nullity" means the right of a person to annul a tax sale in
7 accordance with R.S. 47:2286 because he was not duly notified at least six months
8 before the termination of the redemptive period.

9 (11) "Redemptive period" means the period in which a person may redeem
10 property as provided in the Louisiana Constitution.

11 (12) "Send" means either of the following:

12 (a) To deposit in the mail or deliver for transmission by any other
13 commercially reasonable means of communication with postage or cost of
14 transmission provided for, and properly addressed to any address reasonable under
15 the circumstances.

16 (b) In any other way to cause to be received any written notice within the
17 time it would have arrived if properly sent.

18 (13) "Signed" includes using any symbol executed or adopted with present
19 intention to adopt or accept a writing in tangible form.

20 (14) "Statutory imposition" means ad valorem taxes and any imposition in
21 addition to ad valorem taxes that are included on the tax bill sent to the tax debtor.

22 (15) "Tax debtor" means, as of the date of determination, the person listed
23 on the tax roll in accordance with R.S.47:2126.

24 (16) "Tax notice party" means, as of the date of determination, the tax debtor
25 and any person requesting notice pursuant to R.S.47:2159.

26 (17) "Tax sale" means the sale or adjudication of tax sale title to property
27 pursuant to R.S. 47:2155 and 2196.

28 (18) "Tax sale certificate" means the written notice evidencing a tax sale to
29 be filed in accordance with R.S. 47:2154 and 2196.

1 that is admissible in court, without further authentication or testimony, in the chain
2 of title that there has been a conversion of tax sale title to a full ownership interest
3 on which a title examiner can rely to determine merchantability.

4 §2124. Liability of tax collectors and tax assessors

5 A. Tax collectors and tax assessors shall bear no liability, either in their
6 personal or in their official capacity, arising out of any redemption nullity.

7 B. Liability shall not be imposed on tax collectors or tax assessors or their
8 employees based upon the exercise or performance or the failure to exercise or
9 perform their duties under this Chapter.

10 C. The provisions of Subsection B of this Section are not applicable to acts
11 or omissions which constitute criminal, fraudulent, malicious, intentional, willful,
12 outrageous, reckless, or flagrant misconduct.

13 D. Any action against a tax collector or tax assessor shall be brought prior
14 to the earlier to occur of:

15 (1) One year after the claimant knew or should have known of the act or
16 failure to act giving rise to the cause of action.

17 (2) The date of termination of the right of the claimant to bring an action for
18 nullity.

19 E. The liability of the tax collector or tax assessor in his official capacity for
20 the obligations of his office terminates when he ceases to hold office and his
21 successor is appointed, who shall then succeed in his official capacity to all of the
22 obligations of the preceding holder of the office incurred in his official capacity,
23 subject to the provisions of R.S. 47:2162.

24 Comments – 2008

25 (a) This Section is new. It limits the liability of tax collectors and tax
26 assessors for their actions under this Chapter. The limitation of liability furthers the
27 purpose of this Chapter by removing the burden of notifying interest holders from
28 the tax collectors and tax assessors, and placing that burden on persons attempting
29 to acquire tax sale property or adjudicated property.

30 (b) This Section is based on R.S. 9:2798.1 except the limitation of liability
31 is not limited to policymaking or discretionary acts.

1 deadline for payment of taxes, and shall bear interest from that date until paid, at the
2 rate of one percent per month or any part thereof. In the event of an erroneous
3 assessment and adjustment by the tax commission, the tax debtor shall have fifteen
4 days after the date of receipt of notice of the revised assessment in which to pay the
5 adjusted amount without interest penalty. If the address provided by the tax assessor
6 on the tax roll proves to be incorrect and the tax debtor does not receive a timely
7 notice, the tax collector may extend to the tax debtor a fifteen-day notice in which
8 to pay without interest penalty.

9 C. Notification. As soon as practical following the sending of the tax roll to
10 the tax collector as required by Subsection A of this Section, the tax collector shall
11 use reasonable efforts to send each tax notice party written notice by United States
12 mail of taxes due, at the address listed for each tax debtor on each tax roll. The
13 written notice shall disclose the total amount of taxes due by the tax debtor for the
14 current year, the ward in which the property is located, and the number of the
15 assessment. The written notice shall request the tax debtor to return the written
16 notice to the tax collector with remittance and shall remind the tax debtor of the date
17 that taxes become delinquent following issuance of the notice and that interest will
18 accrue on the taxes from and after the date the taxes become delinquent. Interest
19 shall accrue at the rate prescribed by law, which rate, or a brief description of the
20 manner in which the rate is calculated, shall be stated in the written notice. The tax
21 collector may also notify any other tax sale party but shall not be obligated to do so.
22 The written notice shall be deemed sufficient if it is in the following form:

1 [Name of Political Subdivision]

2 [YEAR] Property Tax Notice

3 [List All Tax Notice Parties and their addresses]

4	<u>Description of Charges</u>	<u>Amount</u>
5	<u>Estimated Tax Due</u>	
6	<u>[Name of Tax District]</u>	
7	<u>Total Taxes</u>	

8	<u>Property Address</u>
9	<u>Legal Description</u>

10 PLEASE REMIT BY [DATE]

11	<u>*** ACCESS YOUR PROPERTY TAXES AND PAY ONLINE @</u>
12	<u>***</u>

13 Please fold and tear along perforated line.

14 [YEAR] PROPERTY TAX NOTICE

15 [Name & Address of Tax Collector] Amount Due:

16 [Name & Address of Tax Debtor] Due Date:

17 Make check payable to: _____

- 18 • Retain the top portion of this form for your records.
- 19 • Write account number on your check. The canceled check will serve
20 as your receipt.
- 21 • For [name of political subdivision] tax information only call
22 [number] or fax [number].
- 23 • Access your property tax and pay online @ [Internet address].
- 24 • Change of address requests and questions regarding the assessed
25 value of the property should be directed to:

26 [Name & Address of Tax Collector]

27 (Tax records cannot be changed without instructions from the respective
28 parish tax assessor)

29 Please sign below and return this portion of notice with check made payable
30 to: [_____]

1 collector is allowed to recover the additional costs for accepting alternative payments
2 by charging a processing fee.

3 (c) This Section makes clear that the tax collector may refuse to accept
4 anything less than full payment of all statutory impositions.

5 §2130. Deferment of tax payments

6 A. Any delinquent ad valorem tax due to the state or to any political
7 subdivisions may be paid to the taxing authority in installments, and interest at the
8 rate fixed by law shall be collected on each installment separately at the time of the
9 payment of the installment. No further interest shall thereafter be collected on the
10 amount of the installment payment. Nothing contained in this Section shall prevent
11 the sale of the property for delinquent taxes, as provided by law. When installments
12 have been collected on any tax, the tax sale shall be for the amount of the unpaid
13 balance of the tax.

14 B. Any political subdivision of the state, through its governing body, when
15 an emergency has been declared to exist by resolution or ordinance adopted by such
16 governing body, shall be authorized and empowered to reduce the interest charge or
17 penalties on ad valorem taxes due to the political subdivision, but in no event shall
18 the rate of interest be reduced to less than six percent, and no reduction in penalties
19 shall exceed fifty percent of the amount of the penalty.

20 C. In case of overflow, general conflagration, general destruction of crops,
21 or other public calamity, or whenever lands or other property, including buildings,
22 structures, or personal property, is damaged or destroyed during a disaster or
23 emergency declared by the governor, in any parish or any political subdivision
24 therein, or of which the parish is a part, rendering impracticable the forcible
25 collection of taxes therein, there shall be no collection of taxes on lands or other
26 property, including buildings, structures, or personal property, damaged or destroyed
27 during the year of the events described in this Section, or the preceding year when
28 the payment of such taxes for the preceding year is affected by the events described
29 in this Section, but the collection of taxes shall be postponed in accordance with the
30 following procedure:

1 (1) The owner wishing to avail himself of the provisions of this Section shall
2 make a sworn statement in triplicate, no later than December thirty-first of the year
3 in which the damage or destruction occurred, or thirty days after the tax bill has been
4 mailed, whichever is later, that his property has been or is overflowed, or is or has
5 been otherwise damaged or destroyed, giving the description of his property as
6 assessed, and that by reason thereof, the forcible collection of the taxes of the year
7 during which the injury occurred, or the preceding year, would be oppressive, and
8 that he is unable to pay the same without a sacrifice of his property. Each copy of
9 the statement shall be signed and sworn to by the tax debtor claiming the benefit of
10 this Section; one copy of the statement shall be filed with the officer charged with
11 the collection of the taxes, one filed in the office of the state auditor, and one shall
12 be filed in the office of the recorder of mortgages of the parish in which the property
13 is located. Thereupon, the owner shall be relieved from the payment of taxes for the
14 year in which he claims a postponement. The filing shall operate as a first lien and
15 privilege, and the statement shall be preserved in book form and duly indexed.

16 (2) A statement of the right of the owner to have his taxes postponed as
17 provided for in Paragraph (1) of this Subsection shall be included with the tax bill
18 mailed to the tax debtor if such tax bill is mailed after the effective date of this
19 Section.

20 (3) The taxes thus postponed shall be divided into ten equal parts, and one
21 part shall be assessed on the immovable property affected and described in the sworn
22 statement for each year for ten subsequent years, or until the whole of the postponed
23 tax is paid, provided that when the tax debtor is assessed with movables only, the
24 postponed taxes shall be assessed against the tax debtor in this manner.

25 (4) All of the postponed taxes may be paid at any time, and the lien canceled.
26 No installment of such tax, if paid at the postponed maturity, shall bear either costs
27 or penalties when so collected, but shall bear interest at the rate of six percent per
28 annum from December thirty-first of the year in which they were originally due until
29 paid.

1 mortgage or privilege on the property, and such mortgage or privilege preempted in
2 three years. Instead, this Section and the revision as a whole treats a tax sale as a *sui*
3 *generis* concept, and provides that the tax sale must take place within three years of
4 the time the statutory impositions that form the basis of the tax sale are due.

5 (c) This Section further clarifies the law that when there is a lawsuit
6 preventing a tax sale, including a federal bankruptcy proceeding, the three year time
7 limit is suspended.

8 §2132. Refund of taxes erroneously paid

9 A. Any person who has a claim against a political subdivision for ad valorem
10 taxes erroneously paid into the funds of that political subdivision may present the
11 claim to the Louisiana Tax Commission within three years of the date of the
12 payment, in such form and together with such proof as the tax commission may
13 require by its rules and regulations. The tax commission shall consult with the
14 assessor of the parish in which the property which is the subject of the claim is
15 located, and after that assessor advises the tax commission that a refund is due the
16 claimant, the tax commission shall duly examine the merits and correctness of each
17 claim presented to it and shall make a determination thereon within thirty days after
18 receipt of the claim.

19 B. If the claim is approved, the tax commission shall authorize and direct the
20 collector, when applicable, to correct the assessment on the roll on file in his office
21 and shall authorize and direct, when applicable, the recorder of mortgages to change
22 the inscription of the tax roll. The tax commission shall also authorize and direct the
23 refund and repayment of those taxes found to be erroneously paid as provided in this
24 Section. Provided that when the claim accrues to more than one person, as for
25 example, the heirs and legatees of another, and the claim is determined by the tax
26 commission to be properly due and owed, payment thereof to the party or parties
27 asserting the same shall not be denied because of the failure or refusal of others to
28 join in and assert the claim, but in such event only the portion due such claimant or
29 claimants shall be paid.

30 C. The collector of ad valorem taxes in each political subdivision, upon
31 receipt of written notice from the tax commission that a particular refund or
32 repayment is owed, shall do one of the following:

1 its own taxes, the board of tax appeals has been eliminated and the Louisiana Tax
2 Commission has been made the proper authority to deal with tax appeals.

3 §2133. Prior payment of taxes

4 If within the redemptive period, the tax collector determines that the statutory
5 impositions on a certain property subject to a tax sale were paid prior to the tax sale
6 or that the tax sale was conducted in violation of a stay under federal bankruptcy law,
7 the tax collector shall cancel the affected tax sale and shall reimburse the tax sale
8 purchaser the bid price. The tax collector may credit the reimbursement pro rata
9 against future disbursements to the tax recipients. Such cancellation reinstates the
10 interests of the tax debtor and his successors and all interests in the property that
11 have been otherwise terminated pursuant to this Chapter, to the extent the interest has
12 not otherwise terminated pursuant to its terms or by operation of law.

13 Comments – 2008

14 (a) This Section is new. It allows the tax collector, without having to resort
15 to a lawsuit, to cancel a tax sale when the statutory impositions have been paid or
16 when the tax sale was conducted in violation of the automatic stay in a federal
17 bankruptcy proceeding.

18 (b) The tax collector is required to reimburse the tax sale purchaser the
19 purchase price and to set off the amount pro rata against future payments to the tax
20 recipients.

21 (c) This Section makes clear that the effect of the cancellation is to reinstate,
22 to the extent such interest was terminated, the interest of the tax debtor and all other
23 holders, mortgages, liens, and encumbrances. To the extent such interests would
24 have been terminated in accordance with the document creating such interest or by
25 operation of law, such as peremption, such interests are not reinstated. See e.g., Civil
26 Code Arts. 3357 et seq.

27 §2134. Suits to recover taxes paid under protest

28 A.(1) No court of this state shall issue any process to restrain, or render any
29 decision that has the effect of impeding, the collection of an ad valorem tax imposed
30 by any political subdivision, under authority granted to it by the legislature or by the
31 constitution.

32 (2) A person resisting the payment of an amount of tax due or the
33 enforcement of a provision of the tax law shall timely pay the amount due to the
34 officer designated by law for the collection of the tax and shall give him, the
35 assessor, and the Louisiana Tax Commission notice at the time of payment of his

1 intention to file suit for the recovery of the tax. Upon receipt of notice, the amount
2 paid shall be segregated and held by the officer for a period of thirty days. If a suit
3 is timely filed contesting the correctness of the assessment pursuant to R.S. 47:1856,
4 1857, or 1998 and seeking the recovery of the tax, then that portion of the taxes paid
5 that are in dispute shall be deemed as paid under protest, and that amount shall be
6 segregated and shall be further held pending the outcome of the suit. The portion of
7 the taxes that is paid by the tax debtor to the officer and is neither in dispute nor the
8 subject of the suit contesting the correctness shall not be made subject to the protest.

9 (3) If the tax debtor prevails, the officer shall refund the amount to the tax
10 debtor with interest at the actual rate earned on the money paid under protest in the
11 escrow account during the period from the date such funds were received by the
12 officer to the date of the refund. If the tax debtor does not prevail, the tax debtor
13 shall be liable for the additional taxes together with interest at the rate set forth above
14 during the period from the date the notice of intention to file suit for recovery of
15 taxes was given to the officer until the date the taxes are paid.

16 B. The right to sue for recovery of a tax paid under protest as provided in this
17 Section shall afford a legal remedy and right of action in any state or federal court
18 having jurisdiction of the parties and subject matter for a full and complete
19 adjudication of all questions arising in the enforcement of the right respecting the
20 legality of any tax accrued or accruing or the method of enforcement. In any such
21 suit, service of process upon the officer or agency designated and provided for in
22 R.S. 47:1998(A)(2) or (B)(3), or Subsection A of this Section, shall be required.

23 C. The right to sue for recovery of a tax paid under protest as provided in this
24 Section shall afford a legal remedy and right of action at law in the state or federal
25 courts where any tax or the collection thereof is claimed to be an unlawful burden
26 upon interstate commerce, or in violation of any act of the congress of the United
27 States, the constitution of the United States, or the constitution of the state. Upon
28 request of a tax debtor and upon proper showing by the tax debtor that the principle
29 of law involved in an additional assessment is already pending before the courts for

1 judicial determination, the tax debtor, upon agreement to abide by the pending
2 decision of the courts, may pay the additional assessment under protest but need not
3 file an additional suit. In such cases, the tax so paid under protest shall be segregated
4 and held by the officer designated by law for the collection of the tax until the
5 question of law involved has been determined by the courts and shall then be
6 disposed of as provided in the decision of the court.

7 D. An assessment valuation or claim of exemption shall be challenged only
8 pursuant to the method or procedures as provided first in R.S. 47:1992, then in R.S.
9 47:1989, and finally in R.S. 47:1998.

10 E. Any tax debtor in the state who has paid his disputed taxes under protest
11 as provided in this Section and who has filed suit under the provisions of R.S.
12 47:1856, 1857, or 1998 shall cause to be served in the suit notice to the officer or
13 officers designated for the collection of taxes in the parish or parishes in which the
14 property is located, the assessor or assessors for the parish or district, or parishes or
15 districts, in which the property is located, and the chairman of the Louisiana Tax
16 Commission. This notice shall be sufficient to cause the officer or officers to further
17 hold the amount segregated pending the outcome of the suit.

18 Comment – 2008

19 This Section reproduces the substance of former R.S. 47:2110. It is not
20 intended to change the law.

21 §2135. Acceptance of pro rata taxes on property acquired by state from private
22 owners

23 A. The tax collector is directed to accept the payment of pro rata taxes on
24 property purchased in full ownership for rights of way or other purposes by the state
25 of Louisiana or any of its political subdivisions and more particularly the Department
26 of Transportation and Development, for the period of time for which the liability for
27 taxes have been due by the private owner or owners of the property.

28 B. The tax collector is authorized to accept the payment of the pro rata taxes
29 on property, regardless of whether the tax roll has been filed.

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PART III. TAX SALES AND REDEMPTIONS

SUBPART A. MOVABLE PROPERTY

§2141. Movable property; notice of delinquency

A. On the day of the deadline for payment of taxes, or as soon thereafter as possible, the tax collector shall address to each tax debtor who has not paid all the taxes which have been assessed to him on movable property a written notice stating that:

(1) In substance, that the taxes assessed to such tax debtor on movable property in the parish fell due and should have been paid in full on or before December thirty-first.

(2) The aggregate assessed value of the property and the aggregate sum of the taxes for the current and all preceding years due thereon.

(3) The tax debtor became delinquent for such taxes on December thirty-first.

(4) Thirty days after receipt of said notice, the tax collector will seize and advertise for sale the movable property on which the taxes are due in the manner provided by law for judicial sales.

(5) At the principal front door of the courthouse, where the civil district court of the parish is held or at the place of seizure or storage in the parish of Orleans, he will sell within the legal hours for judicial sales, for cash, cashier's check, certified check, money order, or wire transfer, without appraisal, such portion of the movable property as the tax debtor shall point out and deliver to the tax collector, and in case the tax debtor shall not point out sufficient property that he will at once and without further delay sell for cash, cashier's check, certified check, money order, or wire transfer, without appraisal, the least quantity of the movable property which any bidder will buy for the amount of taxes assessed upon it with interest and costs for the current and all preceding years and attorney fees.

B. The tax collector in the parish of Orleans, as well as in other parishes of the state, shall mail to each tax debtor one of the notices provided for above, for

1 which he shall be entitled to collect from each tax debtor actual mailing costs of each
2 certified, with return receipt, notice, and further provided that mileage shall be
3 charged for service of this notice, provided that no notice shall be charged for unless
4 it has been actually delivered or mailed to the tax debtor. The collector shall certify
5 on both tax rolls that he has served or mailed all of such notices, and such certificate
6 on either tax roll shall make full proof until disproved in a judicial proceeding.

7 C. The tax collector shall publish once in the official journal published in his
8 district or parish, if there be one, or in the manner provided by law for judicial sales,
9 one general notice substantially in the foregoing form, addressed to all owners of
10 assessed movable property situated in his parish or district, whose names, post
11 offices, or agents are unknown, in which he shall set forth substantially that the taxes
12 of the unknown owners are due and unpaid, and if not paid within twenty days, that
13 he will proceed to seize and sell such quantity of the movable property of each said
14 unknown owner as will pay all the taxes, interest, and costs. He shall pay for the
15 publication and shall be entitled to reimbursement of actual costs from each owner
16 or from the property assessed to him. He shall certify on both tax rolls that he has
17 published and posted such notices, and such certificate on either shall make full
18 proof thereon, until disproved in a judicial proceeding.

19 Comment – 2008

20 This Section reproduces former R.S. 47:2171.

21 §2142. Movable property; seizure and sale

22 A. The tax collector is authorized to collect the taxes due or which may be
23 due by any person, upon a movable property, for any year past or the current year,
24 either by taking into his possession so much of the movable property as may be
25 required, in his opinion, to realize the amount of the tax or taxes, or by placing a
26 keeper upon the movable property subject to the tax until the day of sale, upon which
27 day so much of the property as may be necessary to realize the tax or taxes, interest,
28 and costs, for which it has been seized, shall be sold to the highest bidder, without
29 appraisalment and without redemption. However, after the tax collector has seized

1 the movable property, as above set out, he shall ascertain the amount of taxes due for
 2 the past year by reference to the assessment roll, and for the current year by fixing
 3 the same value or percentage of value as was used by the state and the parish in the
 4 year preceding on like property, and by applying to that value the rate of taxation
 5 applied to property of the same class in the preceding year.

6 B. When the tax collector proceeds under Subsection A of this Section, he
 7 shall give written notice immediately after actually taking the property into his
 8 possession or placing a keeper thereon. The notice shall state the amount of taxes,
 9 interest, costs, and penalties and contain a demand for payment within three days and
 10 a statement of his intention to sell in default of payment within the three days. The
 11 notice shall be served in the manner now provided for services of notice of seizure
 12 under writs of fieri facias, by the tax collector or deputy, and a return or statement
 13 in writing of the mode of service shall be made by the officer serving the notice and
 14 shall be filed in the office of the tax collector, and shall be received by the courts as
 15 prima facie evidence of notice.

16 C. On the expiration of three days after the date of giving notice as provided
 17 in Subsection B of this Section, the tax collector shall advertise, in the manner
 18 provided for judicial sales of movable property, that he will sell so much of the
 19 property so seized as may be necessary to pay all the taxes, interest, and costs for
 20 which the seizure had been made. The sale shall be made without appraisalment and
 21 without redemption.

22 Comment – 2008

23 This Section reproduces former R.S. 47:2172.

24 §2143. Movable property; procedure when removed from parish or municipality
 25 before payment

26 When movable property is moved from the parish or municipal corporation
 27 in which it is assessed to any other parish or municipal corporation in this state
 28 before the taxes on the property are paid, or moved from a municipality to another
 29 part of the same parish, and the taxes are not paid by the owner of the property when

1 due, the tax collector of the parish or municipality in which the property is located,
2 at the request of the tax collector of the parish or municipality from which such
3 property was moved, at the time when the taxes were due, or subsequent thereto,
4 shall enforce the collection of all taxes due on the property by seizure and sale in
5 accordance with law. When taxes are collected in accordance herewith, the tax
6 collector making the collection shall forward the full amount of taxes collected,
7 including interest and penalties, to the tax collector of the parish or municipal
8 corporation in which the property was assessed, but may retain all amounts collected
9 for costs incurred in making the collection.

10 Comment – 2008

11 This Section reproduces former R.S. 47:2173.

12 §2144. Movable property; summary seizure to secure payment

13 The tax collector shall seize the movable property of any tax debtor without
14 notice when he believes that such seizure is necessary to enable him to collect any
15 tax due by the debtor, and he shall make such seizure whenever he has good reason
16 to believe that the tax debtor will conceal, part with, or dispose of the movable
17 property, which fact must be made to appear by the affidavit of the tax collector, or
18 one of his deputies; he shall advertise the property in the manner provided for in
19 judicial sales and shall sell, for cash, cashier's check, certified check, money order,
20 or wire transfer, without appraisalment, the least amount of the property seized which
21 any bidder will buy for the amount of the taxes, interest, and costs.

22 Comment – 2008

23 This Section reproduces former R.S. 47:2174.

24 §2145. Movable property; additional sanction for tax collection

25 A. When it is necessary, the tax collector shall seize, advertise in the manner
26 provided for judicial advertisement, and sell any other property belonging to the tax
27 debtor to collect the taxes, interest, and costs due by the debtor for whatever it will
28 bring in cash, without appraisalment, and in such case, the tax collector shall make

1 sales of the property of delinquent tax debtors as often as he is able to find any
2 property of the debtors, until all the taxes, interest, and costs due by them are paid.

3 B. If the collector cannot make a seizure of the movable property liable for
4 the tax assessed against it, either because of the nature of the property assessed or
5 because the owner or his representative holds it in his possession or under his control
6 in such a manner that the tax collector cannot lay hands upon it and refuses on
7 demand to deliver the same to the tax collector, the tax collector shall have the power
8 to seize any other property belonging to the tax debtor, or he may take into the court
9 having jurisdiction of the subject matter a summary rule upon the person assessed
10 or his representative, as the case may be, returnable in five days, in vacation as well
11 as term time, to compel the delivery to him of said property or so much thereof, if
12 the same be divisible in kind, as may be necessary to realize at public sale the
13 amount of the taxes, costs, and penalties. All answers to rules shall be in writing and
14 shall set forth specifically all defenses relied on by the tax delinquent and shall be
15 made on or before the time in which the rule is made returnable. If the tax collector
16 employs the services of an attorney to bring a summary rule to compel delivery of
17 property, the tax debtor shall pay the sum of twenty percent of the taxes and interest
18 due by the debtor, as attorney fees, which amount shall be collectable in the same
19 manner as the taxes, interest, and costs due by such debtor.

20 C. The tax collector is authorized to seize and sell any growing or gathered
21 crops or shares therein whenever such seizure may be necessary to collect taxes
22 assessed. The tax collector is also authorized to proceed in the courts to procure the
23 garnishment of any salary, compensation, or reward for personal services, or of any
24 obligations, rights, credits, or debts due to the tax debtor in any form whatever
25 whenever such garnishment may be necessary to collect such taxes. No deposits or
26 security for costs shall be required in such cases.

27 D. The state and its subdivisions and all cities, towns, and villages shall have
28 a first lien and privilege on all movable property for the payment of all taxes on
29 personal property, in all judicial or insolvency proceedings, receiverships, or

1 liquidations, whether seizure has been made or not, for such taxes previous to such
2 proceedings, receiverships, or liquidations.

3 E. All movable property sold at tax sales shall be immediately delivered
4 without the right of redemption into actual possession of the purchaser by the tax
5 collector, who shall have full authority and power to make all the seizures necessary
6 to take and deliver such actual possession.

7 F. However, if the tax collector is unable to locate the debtor, any of the
8 movable property liable for the said tax, or any other movable property belonging to
9 the tax debtor, the said tax collector shall make a notation on the tax rolls "NO
10 PROPERTY FOUND". Making such notation on the tax rolls shall relieve said tax
11 collector from any further obligation for the collection of said tax, provided,
12 however, nothing herein shall discharge the obligation of the tax debtor, and if
13 property is found or the tax debtor is located, the tax collector shall proceed to
14 collect such taxes as are due.

15 Comment – 2008

16 This Section reproduces former R.S. 47:2175.

17 §2146. Movable property; tax debtors' rights

18 A. Any person shall be allowed to point out the particular movable property
19 which he may desire to have sold for taxes due by him, delivering the property to the
20 tax collector at his office on or before the day of sale, provided that the property be
21 sufficient in the opinion of the tax collector to realize the amount of the taxes due.

22 B. When seizure is made of movable property in any of the forms provided
23 to enforce the payment of taxes, the debtor may secure release of the same until the
24 day of sale upon his forthcoming bond, with solvent security in solido, which shall
25 be executed in the same manner as forthcoming bonds for property seized under
26 writs of fieri facias. Anyone so releasing his property shall return the same into the
27 possession of the tax collector for sale on or before the day of sale; unless so
28 returned, the forthcoming bond shall be considered forfeited and shall be filed in the
29 office of the clerk of the civil district court of the parish and shall have the force and

1 effect of a twelve months' bond to be executed by a writ of fieri facias issued thereon
2 by the clerk against the principal and sureties in solido, as provided by law for the
3 enforcement of twelve months' bonds. The forfeiture of the bond shall be made to
4 appear by certificate of the tax collector written thereon.

5 Comment – 2008

6 This Section reproduces former R.S. 47:2176.

7 §2147. Movable property; payment of taxes by party taking possession

8 A. When a sheriff, constable, marshal, receiver, liquidator, syndic, or other
9 judicial or court officer or functionary takes possession of movable property, he shall
10 pay at once all the taxes that may be due or may become due upon the same, and if
11 he fails to do so, he shall become responsible personally upon his bond for the
12 payment of the same. He shall file with his provisional and final accounts in the case
13 or proceeding a certificate of the tax collector showing that all taxes upon such
14 property seized or administered have been paid, and in the event of failure to do this,
15 he shall not be discharged upon his official bond.

16 B. The tax collector shall also have the right to proceed by rule at any time
17 in the court having custody of movable property or the proceeds thereof to compel
18 such sheriff, constable, marshal, receiver, liquidator, or syndic to make payment of
19 all taxes due upon the property, without waiting for proceedings on final account or
20 tableau of distribution.

21 Comment – 2008

22 This Section reproduces former R.S. 47:2177.

23 SUBPART B. IMMOVABLE PROPERTY

24 §2151. Transfer after tax roll delivered

25 A sale, pledge, mortgage, or other alienation or encumbrance of property
26 made after the tax roll has been delivered to the tax collector shall not affect the
27 taxes assessed on the property or the sale of the property to enforce collection of
28 delinquent taxes.

29 Comments – 2008

1 (a) This Section reproduces the substance of former R.S. 47:2178. It is not
2 intended to change the law.

3 (b) Since this revision eliminates the requirement of filing the tax rolls in the
4 mortgage records, the cut-off period is the time the assessor delivers the tax rolls to
5 the tax collector.

6 §2152. Immovable property; lots assessed together

7 If two or more lots or parcels of ground have been assessed in any year or
8 years to the same tax debtor at a certain valuation for the whole together, without
9 distinguishing the valuation of each lot or parcel separately, the tax collector is
10 authorized, but shall not be obligated, to receive the proportion of taxes under
11 assessment fairly due upon any one or more of the lots or parcels separately. The
12 proportions shall be ascertained and fixed by a certificate authenticated by the
13 assessor and approved by the tax collector. The lots or parcels upon which their
14 proportions are paid shall be free from the proportion of taxes pertaining to the other
15 lots or parcels of the assessment.

16 Comments – 2008

17 (a) This Section reproduces the substance of former R.S. 47:2179. It is not
18 intended to change the law.

19 (b) This Section makes clear that the tax collector has no obligation to accept
20 only a portion of the statutory impositions assessed on a tax parcel based on the
21 proportional size of a lot or parcel contained within the whole tax parcel.

22 §2153. Notice of delinquency and tax sale

23 A. On the second day after the deadline for payment of taxes each year, or
24 as soon thereafter as possible, the tax collector shall send a written notice by United
25 States mail postage prepaid to each tax notice party when the tax debtor has not paid
26 all the statutory impositions which have been assessed on immovable property,
27 notifying the person that the statutory impositions on the immovable property shall
28 be paid within twenty days after the sending of the notice or as soon thereafter before
29 the tax sale is scheduled, or that tax sale title to the property will be sold according
30 to law. The notice shall be sufficient if it is in the following form:

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<u>Year</u>	<u>Ward</u>	<u>Sect.</u>	<u>Ass. #</u>	<u>Property #</u>	<u>Notice #</u>

*****PLEASE NOTE*****	<u>[NAME OF POLITICAL SUBDIVISION]</u>
<u>*By law your taxes are delinquent after December thirty-first. The law requires interest be charged as follows: A flat rate of one percent (1%) per month on delinquent ad valorem taxes.</u>	
<u>*If monies for payment of taxes are in escrow, please forward tax notice to your mortgage company.</u>	
<u>*If a receipt is requested, enclose a self-addressed stamped envelope along with your payment.</u>	
<u>*Please notify the sheriff's office or the assessor's office with all address changes.</u>	
<u>*For questions about assessed value or millages contact: Assessor's Office: Property Tax Dept:</u>	
<u>*Payment may be made online at _____</u>	
<u>*[DATE OF NOTICE]. If taxes are not paid within twenty days after this date, the political subdivision will proceed to sell tax sale title to the property at [list location of the tax sale] beginning on [list first day of sale]. You will have the right to pay the amounts due until the day before the actual sale. If tax sale title to the property is sold, you will have three years [or other applicable redemptive period] from the date of the filing of the tax sale certificate in which to redeem the property according to law, but in order to redeem, you will be required to pay a 5% penalty and 1% per month on the amounts past due together with other costs in accordance with law.</u>	

1	<u>Total Assessed</u>	<u>Millages</u>	<u>Homestead</u>	<u>Taxes and</u>	<u>Assessment</u>
2	<u>Value Tax</u>		<u>Exemption</u>	<u>other</u>	<u>Information</u>
3	<u>Distributions</u>			<u>Statutory</u>	
4				<u>Impositions</u>	
5	[add taxing districts]			<u>Due</u>	<u>Total Assessed Value</u>
6				[add amount of tax due each district]	
7					<u>Property Description</u>
8	<u>Total Statutory</u>				
9	<u>Impositions</u>				
10	<u>Due</u>				
11	<u>Interest</u>				
12	<u>Costs</u>				
13	<u>Total</u>				

12 [Name of Tax Collector and Address]

13	<u>Total Statutory Impositions Due</u>	
14	<u>Interest</u>	
15	<u>Cost</u>	
16	<u>Total</u>	

17 [Tax Collector Name]

18	<u>YEAR</u>	<u>WARD</u>	<u>SECT</u>	<u>ASS.#</u>	<u>PROPERTY</u>	<u>NOTICE #</u>

19 Name of Tax Debtor
20 [address] _____

21 Make checks payable to: _____ [Tax Collector Name]

22 Mail this portion of tax bill and payment to: _____ [address]"

23 B.(1) At the expiration of twenty days' notice, counting from the day when
24 the last of the written notices are sent, or as soon thereafter as practicable, the tax
25 collector shall proceed to publish a notice to the tax debtors of the delinquency and
26 to advertise for sale the consolidated delinquent tax list under one form two times
27 within thirty days in the official journal of the political subdivision. The publication
28 and advertisement shall be sufficient if it is in the following form:

1 "DELINQUENT TAX LIST
2 vs. Delinquent Tax Debtors
3 (insert appropriate taxing bodies)

4 By virtue of the authority vested in me by the constitution and the laws of the
5 State of Louisiana, I will sell, at _____, within the legal hours for
6 judicial sales beginning at _____ o'clock a.m. on _____, the
7 day of _____, _____, and continuing on each succeeding legal day, until said
8 sales are completed, tax sale title to all immovable property on which taxes
9 are now due to _____, to enforce collection of taxes
10 (insert affected taxing bodies)
11 assessed in the year _____, together with interest thereon from January 1, _____, at the
12 rate of one percent (1%) per month until paid and all costs. The names of said
13 delinquent tax debtors, the amount of statutory impositions due, including any due
14 for prior years, and the immovable property assessed to each to be offered for sale
15 are as follows: (Insert names of delinquent tax debtors in alphabetical order, the
16 amount of statutory impositions due, including any due for prior years on each
17 specific piece of property, and the description of each specific piece of immovable
18 property to be offered for sale.)

19 On the day of sale I will sell a tax sale title to such portions of the property
20 as each tax debtor will point out and, in case the debtor will not point out sufficient
21 property, I will at once and without further delay sell the least quantity as undivided
22 interests of said property of any tax debtor which any bidder will buy for the amount
23 of the statutory impositions for which the sale is made, together with interest and
24 costs due by said tax debtor. The sale will be without appraisalment, for cash or other
25 payment method acceptable to the tax collector, in legal tender money of the United
26 States, and the tax sale title to property sold will be redeemable at any time during
27 the applicable redemptive period by paying the price given, including costs and five
28 percent (5%) penalty thereon, with interest at the rate of one percent (1%) per month
29 until redeemed."

30 (2) For the purpose of tax sales, it shall be sufficient to advertise all property
31 in the name of the tax debtor at the time the assessment was made.

1 (3) For the purpose of tax sales, it shall be sufficient to assess and describe
2 all property assessed in the following manner: by designating the tract or lot by the
3 name by which it is commonly known, or by the number or letter by which it may
4 be usually designated upon the regular assessment roll or upon an official or private
5 plan or sketch or by giving the boundaries or the names of the owners upon each
6 side, or by the dimensions or description or name given in the act transferring the
7 ownership thereof, or by such other further description as may furnish the means of
8 reasonable identification.

9 (4) No tax sale shall be set aside or annulled for any error in description or
10 measurement of the property assessed in the name of the tax debtor, provided the
11 property sold can be reasonably identified. When advertisements are required to be
12 made in relation to the sale of property for unpaid taxes, the advertisements shall be
13 made in the English language only.

14 (5) The tax sale shall convey and the purchaser shall take tax sale title to the
15 whole of the property assessed to the delinquent tax debtor, or if there are separate
16 assessments of undivided interests in an entire property, tax sale title to the whole of
17 the undivided interests assessed to the delinquent tax debtor if it is the least quantity
18 sufficient to satisfy the aggregate of all taxes, interest, penalties, and costs. The least
19 quantity shall be determined by undivided interests. The tax collector shall then
20 proceed to sell the lesser undivided interest of the whole property as will satisfy the
21 charges and shall not entertain a bid in excess thereof. The tax sale shall convey, and
22 the purchaser shall take, tax sale title to the entirety of the property, or in the case of
23 separate assessments for undivided interests in the property, tax sale title to the
24 entirety of the undivided interest, intended to be assessed and sold as it was owned
25 by the delinquent tax debtor regardless of any error in the dimensions or description
26 of the property as assessed and sold. The tax collector in the advertisement or tax
27 sale may give the full description according to original titles.

28 C. Within thirty days after the filing of the tax sale certificate, or as soon
29 thereafter as possible, the tax collector shall research the records of the recorder of

1 and tax debtors and to seizures, advertisements, and sale of tax sale title to the
 2 property in full, did in the manner prescribed by law, advertise and list in [name of
 3 appropriate journal for legal notices] the property to be sold for delinquent property
 4 taxes with interest and costs for the year(s) of _____ in the [place of sale] on
 5 [dates of publication], beginning at ten o'clock A.M., giving notice in the issues of
 6 the newspaper and in said list as advertised the following described immovable
 7 property appearing in the name of _____.

8 To-wit:

9	<u>Ward _____</u>	<u>Section No. _____</u>	<u>Taxes \$ _____</u>
10	<u>Assessment No. _____</u>		<u>Interest _____</u>
11			<u>Costs _____</u>
12			<u>Total _____</u>

13 Property description: _____

14 And on said [date], after beginning but not completing said list, I continued
 15 the same within legal hours each succeeding legal day offering tax sale title to said
 16 property for sale at public auction in the manner required by said laws and the whole
 17 or the undivided interest of the tax debtor therein being the smallest amount of said
 18 property that any bidder would buy and pay the taxes and costs, and [Name of
 19 Purchaser] being the bidder, and having complied with the terms of sale, became the
 20 purchaser of tax sale title to the whole of the property or the undivided interest of the
 21 tax debtor therein.

22 NOW, THEREFORE, all the formalities of the law having been complied
 23 with, I [Name of Tax Collector], Tax Collector for said [Name of Political
 24 Subdivision], by virtue of the authority in me vested by the laws of the State of
 25 Louisiana do by these presents sell and transfer unto [Name and Address of
 26 Purchaser], tax sale title to property or the undivided interest of the tax debtor therein
 27 last above described with all the improvements thereon. The tax debtor or any
 28 person interested personally or as heir, legatee, creditor or otherwise, shall have the
 29 right to redeem the property for the period of three years [or other redemptive

1 period] from the date of filing of this tax sale certificate. The redemption may take
2 place by paying the price given including costs and five percent penalty thereon with
3 interest at the rate of one percent per month until the redemption.

4 IN TESTIMONY WHEREOF, I have hereunto signed my name officially at
5 _____ , Parish of _____ , in the presence of the two
6 undersigned competent witnesses, who also signed on this _____ day of
7 _____, 2_____.

8 Witnesses:

9 _____
10 Printed Name: [Name of Tax Collector]
11 _____ [Name of Political Subdivision]
12 Printed Name:
13 By: _____

14 B. A certified copy of the tax sale certificate is prima facie evidence of the
15 regularity of all matters regarding the tax sale and the validity of the tax sale.

16 C. The tax sale certificate contemplated by this Section is a tax deed for
17 purposes of Article VII, Section 25 of the Louisiana Constitution.

18 Comments – 2008

19 (a) This Section modifies former R.S. 47:2183(A). In following the purpose
20 of the revision to this Chapter, a safe harbor form tax sale certificate is provided.

21 (b) The old concept of tax deed is replaced with the concept of tax sale
22 certificate. See R.S. 47:2122(18). A tax sale certificate transfers tax sale title only.
23 The tax sale certificate, however, constitutes a tax deed for purposes of the Louisiana
24 Constitution.

25 (c) Further, the concept of a *proces verbal* is eliminated. The tax sale
26 certificate itself is prima facie evidence of the regularity and validity of the tax sale.
27 Moreover, since under this revision the only causes for nullity are a redemption
28 nullity, a payment nullity, or a sale to a prohibited buyer, problems with a tax sale
29 itself and a tax sale certificate do not create a nullity action. See R.S. 47:2122(8) &
30 (10), and 47:2286; 47:2162.

31 §2156. Post-sale notice

32 A. Within the applicable redemptive period, the tax sale purchaser may send
33 a written notice to any or all tax sale parties notifying the parties of the sale. The
34 notice shall provide full and accurate information necessary to contact the tax sale
35 purchaser, including the name, physical address, and telephone number of the

1 purchaser. It shall be accompanied by a copy of the tax sale certificate received by
2 the tax sale purchaser under the provisions of this Part and copies of the documents
3 that the purchaser received with that sale. The notice shall inform the tax sale parties
4 that the failure to redeem the property prior to the expiration of the applicable
5 redemptive period will terminate the right to redeem the property, and the purchaser
6 will have the right to seek confirmation of the tax title and take actual possession of
7 the property. The notice shall be sufficient if it is in the form set forth in Subsection
8 B of this Section.

9 B. For each property for which tax sale title was sold at tax sale to a tax sale
10 purchaser:

11 (1) If the redemptive period is greater than two years, each January or as
12 soon as practical thereafter, each tax collector shall send a written notice by United
13 States mail, postage prepaid, to each tax notice party and each tax sale party whose
14 interest would be shown on a thirty-year mortgage certificate in the name of the tax
15 debtor and whose interest was filed prior to the filing of the tax sale certificate that
16 tax sale title to the property has been sold at tax sale.

17 (2) If the redemptive period is two years or less, within thirty days after
18 filing a tax sale certificate to a third party, and thereafter each January and June or
19 as soon thereafter as practical, each tax collector shall send a written notice by
20 United States mail, postage prepaid, to each tax notice party and each tax sale party
21 whose interest would be shown on a thirty-year mortgage certificate in the name of
22 the tax debtor and whose interest was filed prior to the filing of the sale that tax sale
23 title to the property has been sold at tax sale.

24 (3) The notice shall be given until the end of the applicable redemptive
25 period. The notice shall specify the property upon which the taxes are delinquent,
26 the amount of taxes due, and the manner in which the property shall be redeemed and
27 shall be sufficient if in the following form:

1 "[Date]"

2 "[Name Tax Debtor]"

3 RE: Property No. _____

4 Ward _____ Section No. _____ Assessment No. _____

5 Subd. _____ Lot _____

6 Dear Sir/Madam,

7 This is an important notice. Please read it carefully. We are writing to
8 inform you that the property taxes for the above noted property were not paid, and
9 tax sale title to the property was sold to a tax sale purchaser for delinquent taxes for
10 the year(s) _____. You may redeem this property within three years [or other
11 applicable redemptive period] from _____ by paying to the [name
12 of tax collector] the following amount due stated in or enclosed with this document.

13 The redemptive period will expire _____. Under some circumstances, the third
14 party buyer may be entitled to take actual possession and full ownership of the
15 property after this time.

16 After the expiration of the redemption period the property cannot be
17 redeemed. Continued possession of the property does not extend the redemptive
18 period.

19 Please contact the [name of tax collector] if you believe that you received this
20 notice in error, have sold or transferred this property, or for further information and
21 assistance.

22 [Tax collectors or name of political subdivision/ name of tax sale purchasers]

23 This notice concerns only the property described in the "regarding" portion
24 of this letter; the address of that property may or may not be the same as the mailing
25 address of this notice. Please contact our office if you feel that your received this
26 notice in error. The taxes are now assessed in the name of the tax sale purchaser, but
27 will continue to be due as in the past.

28 [Enclose or list the amount of statutory impositions due]"

29 C. For each property adjudicated to a political subdivision at a tax sale:

1 expiration of the redemption period, your rights to redeem may be limited.

2 Continued possession of the property does not extend the redemptive period.

3 Please contact the [name of tax collector] if you believe that you received this
4 notice in error, have sold or transferred this property, or for further information and
5 assistance.

6 [Tax collectors or name of political subdivision/ name of tax sale purchasers]

7 Payment shall be made with cashier's check or money order.

8 This notice concerns only the property described in the "regarding" portion
9 of this letter; the address of that property may or may not be the same as the mailing
10 address of this notice. Please contact our office if you feel that you received this
11 notice in error. The taxes are now assessed in the name of the tax sale purchaser, but
12 will continue to be due as in the past.

13 [Enclose or list the amount of statutory impositions due.]"

14 Comments – 2008

15 (a) This Section reproduces the concepts contained in former R.S.
16 47:2183(C), but modifies the law in part.

17 (b) Subsection A allows, but does not require, a tax sale purchaser to give
18 notice of the right to redeem to tax sale parties prior to expiration of the applicable
19 redemptive period. Redemptions are to be made through the tax collector. See R.S.
20 47:2243. The tax sale purchaser is not allowed to recoup from the person redeeming
21 the property any costs for identifying tax sale parties or sending the notice.

22 (c) Subsection B provides that the tax collector is to send notice of the right
23 to redeem prior to the expiration of the redemptive period. The notice is to be sent
24 to the tax notice parties and any other tax sale party shown on a thirty year mortgage
25 certificate run in the name of the tax debtor. See R.S. 9:5213. If the redemptive
26 period is greater than two years, the notice is sent once a year. If the redemptive
27 period is two years or less, the notice is sent twice a year. The notice is not required
28 to be sent by certified mail, return receipt requested. It is only required to be sent by
29 U.S. mail. See *Jones v. Flowers*, 547 U.S. 220, 126 S. Ct. 1708 (2006). To the
30 extent a person is duly notified by the sending of the notice under Subsection B and
31 the property is not redeemed before the expiration of the redemptive period, the
32 person does not have a cause of action for a redemption nullity after the expiration
33 of the redemptive period.

34 (d) A statutory safe harbor for the notice in Subsections A and B is provided
35 in Subsection B.

36 (e) Subsection C provides that a political subdivision may give a notice of
37 the right to redeem even if the property has become adjudicated property. A safe
38 harbor form is provided.

1 (f) To the extent that a person is duly notified pursuant to other provisions
2 of this Chapter and fails to take action in the applicable time period, the failure to
3 give the notices provided in this Section do not give rise to an action based on a
4 redemption nullity. See R.S. 47:2286.

5 §2157. Notice of tax sale; affidavit; cancellation

6 A.(1) Upon the expiration of the applicable redemptive period, the tax sale
7 purchaser may send a notice to a tax sale party whose interest the tax sale purchaser
8 intends to terminate that the party has until the later of:

9 (a) Sixty days after the date of the notice provided in this Subsection, if five
10 years have elapsed from the filing of the tax sale certificate to challenge, in a court
11 of competent jurisdiction, the tax sale.

12 (b) Six months after the date of the notice if five years have not elapsed from
13 the filing of the tax sale certificate, to challenge, in a court of competent jurisdiction,
14 the tax sale.

15 (2) This notice shall constitute a notice of sale, and sending of this notice
16 shall constitute the service of the notice of sale under Article VII, Section 25 of the
17 Louisiana Constitution. This notice shall be sufficient without regard to whether the
18 notice of the tax sale or any other notice has been given. The notice shall be
19 sufficient if it is in the following form:

20 **"This is an important legal notice.**

21 **Please read it carefully. You will receive no further notice.**

22 [Date]

23 [Name]

24 [Address]

25 [City], [ST] [Zip]

26 RE: Property: [Property Address]

27 [Description of Property Abbr]

28 Parish of _____, State of Louisiana

29 Tax sale title to the above described property has been sold for failure to pay
30 taxes. You have been identified as a person who may have an interest in this
31 property.

1 D. After the expiration of the applicable time period set forth in the notice,
2 the tax sale purchaser may file with the recorder of mortgages an affidavit indicating
3 how the tax sale parties whose interest the purchaser intends to be terminated were
4 identified, how the address of each tax sale party was obtained, how the notice was
5 sent, the results of sending the notice, and the dates of publication. The affidavit
6 may also contain a statement of the interests to which the purchaser takes subject.
7 The recorder of mortgages shall index the affidavit only under the names of the tax
8 sale purchaser and the tax debtor as mortgagors. The affidavit shall be sufficient if
9 it is in the following form:

<u>"AFFIDAVIT</u>	<u>UNITED STATES OF AMERICA</u>
<u>BY</u>	<u>STATE OF LOUISIANA</u>
<u>[NAME OF AFFIANT]</u>	<u>PARISH OF</u>

13 This affidavit shall be indexed under each of the following names as
14 mortgagor:
15 (a) [Name of tax sale purchaser]
16 (b) [Name of tax debtor]

17 BE IT KNOWN, on the _____ day of _____ [MONTH], _____ [YEAR]
18 BEFORE ME, the undersigned notary public, duly qualified in and for the
19 state and parish aforesaid, and in the presence of the undersigned competent witness,

20 PERSONALLY CAME AND APPEARED:

21 _____ [name of affiant], major
22 domiciliary of the Parish of _____, State of
23 Louisiana ("affiant"), who, after being duly sworn, deposed and stated that on his
24 personal knowledge:

- 25 1. Affiant personally examined [name of abstract] [title certificate] [the
26 public records] (the "Abstract") affecting the following described immovable
27 property located in the Parish of _____, State of Louisiana (the "property"):

1 [Legal description of property]

2 2. Affiant's review of the abstract revealed the following persons or entities
3 with an interest in the property, which such interest being listed beside the name:

<u>Name</u>	<u>Interest In Property</u>	<u>Recordation Information</u>

5 3. Affiant reviewed the documents listed in the abstract, the telephone book
6 published by [name of telephone book publisher] for the Parish of
7 _____ dated for use until [date], and utilized all the resources
8 under [list other examination resources, including Internet search engines, if any].
9 and such search revealed the following last known addresses for the persons listed
10 in Item 2 above:

<u>Name</u>	<u>Address</u>

12 4. Affiant reviewed the records of the Louisiana Secretary of State and the
13 secretary of state of the states set forth by the names of the entities listed below, and
14 such search revealed the following addresses for the entities listed in Item 2 above:

<u>Name</u>	<u>State</u>	<u>Address</u>

16 5. Affiant caused to be sent a written notice notifying the persons or entities
17 listed in Item 2 above at the addresses listed in Items 3 and 4 above. A sample of the
18 form of the written notice is attached and satisfied R.S.47:2157(A).

19 6. The method and results of the notifications set forth in Item 5 above are
20 listed by name and address as follows:

<u>Name</u>	<u>Method</u>	<u>Results</u>

22 7. Notification was also published in [journal of general circulation for the
23 political subdivision] on [list dates] [and was posted on the property]. The form of
24 the publications is attached and satisfied R.S.47:2157(B).

1 (e) Subsection D allows the tax sale purchaser to file in the mortgage records
 2 an affidavit evidencing how the tax sale parties were identified, that the notice under
 3 Subsection A was sent, the results of sending the notice, and what interests are to be
 4 terminated. The affidavit may also list the encumbrances to which the tax sale
 5 purchaser takes subject. The affidavit is just one method of evidencing that a
 6 particular tax sale party was duly notified. See R.S. 47:2123. Other competent
 7 evidence may be used to prove that a tax sale party was duly notified. Filing of the
 8 affidavit, however, will allow title examiners to rely on the information contained
 9 in the affidavit as evidencing that title to the property is merchantable, and free and
 10 clear of the encumbrances listed in the affidavit. The recorder of mortgages is
 11 required only to index the affidavit under the names of the tax sale purchaser and tax
 12 debtor.

13 (f) Nothing in this Section should be construed to limit who can send the
 14 notice or who executes the affidavit. It could be the original tax sale purchaser, his
 15 successors or assigns, or their agent, attorney or title agent. Cf. *Laney v. City of New*
 16 *Orleans*, 945 So. 2d 79 (La. App. 4 Cir. 2006). The issue is whether a particular tax
 17 sale party was duly notified regardless of who sent the notice or how the notice was
 18 sent. Subsection E provides that the filing of the affidavit cancels all statutory
 19 impositions due prior to the recordation of the tax sale certificate since the purchase
 20 price paid was the amount of those statutory impositions of the taxing authority
 21 conducting the tax sales. It does not, however, cancel statutory impositions of other
 22 taxing districts which conduct separate tax sales. See R.S. 47:2160. Other
 23 governmental liens, such as condemnation liens, weed liens, etc., that were not
 24 included as statutory impositions are not cancelled.

25 (g) Subsection F requires the recorders to treat those items listed as
 26 terminated in the affidavit as in fact terminated. Therefore, a mortgage certificate
 27 should not reflect those terminated encumbrances. Moreover, any such termination
 28 affects only the property subject to the tax sale. For example, a judicial mortgage
 29 would be released as to the property affected by the tax sale only. The judicial
 30 mortgage would still be effective as to other property still owned by the tax debtor.

31 (h) Subsection G provides a statutory hold harmless and indemnity from the
 32 tax sale purchaser to the various recorders for reliance on any material false
 33 statements contained in the affidavit.

34 §2158. Writ of possession

35 A. When necessary to comply with an order of a political subdivision for the
 36 purpose of enforcing property standards, upon the presentation of the order and a
 37 certified copy of a tax sale certificate for immovables to a judge of a competent
 38 jurisdiction (determined by the value of the immovables described and not the
 39 amount of the taxes), the judge shall grant ex parte an order of seizure and
 40 possession, commanding the sheriff to seize the property and place the purchaser in
 41 actual possession. A writ of possession shall be issued by the clerk, but the
 42 purchaser may take actual possession without the order with the consent or
 43 acquiescence of the tax debtor or otherwise, provided no force or violence is used.

1 PART IV. ADJUDICATED PROPERTY

2 SUBPART A. GENERAL PROVISIONS

3 §2196. Adjudication to political subdivisions

4 A. The bid to be accepted in tax sales shall be at least equal to the statutory
5 impositions, costs, and interest; otherwise, the tax collector shall bid in tax sale title
6 to the property for the political subdivision. The tax collector shall make out a tax
7 sale certificate and file the tax sale certificate with the recorder of conveyances of
8 the parish in which the property is located. The tax sale certificate shall be sufficient
9 if it is in the following form:

10 "[Name of Political Subdivision]

11 v.

12 [Name of Tax Debtor]

13 State of Louisiana

14 Parish of _____

15 City of _____

16 To: _____

17 BE IT KNOWN AND REMEMBERED, that, I, [name of tax collector], Tax
18 Collector for the [name of political subdivision], in the name of the [name of
19 political subdivision], and by virtue of the authority in me vested by the Constitution
20 and laws of the State of Louisiana and, pursuant to the requirements of the law,
21 having mailed and published the notice required by the law, and having strictly
22 complied with each and every requirement of the law relating to delinquent taxes,
23 tax debtors, and to seizures, advertisements, and sale of tax sale title to the property
24 in full, did in the manner prescribed in the law, advertise and list in [name of
25 appropriate journal for legal notices] the property to be sold for delinquent property
26 taxes with interest and costs for the year(s) of _____ in the [place
27 of sale] on [dates of publication], beginning at ten o'clock A.M. giving notice in the
28 issues of the newspaper and in the list as advertised the following described property:

1 [See Exhibit "A." (Include name of each tax debtor in Exhibit "A")

2 And on said [date], after beginning but not completing said list, I continued
3 the same within legal hours the next succeeding legal days offering tax sale title to
4 said property for sale at public auction in the manner required by said laws and the
5 whole or the undivided interest of the tax debtor therein being the smallest amount
6 of said property that any bidder would buy and pay the taxes and costs and [name of
7 political subdivision to which the property is being adjudicated] being the bidder,
8 and having complied with the terms of sale, became the purchaser of tax sale title to
9 the whole of the property or the undivided interest of the tax debtor therein.

10 NOW, THEREFORE, all the formalities of the law having complied with, I
11 [name of tax collector], Tax Collector for said [name of political subdivision], by
12 virtue of the authority in me vested by the laws of the State of Louisiana do by these
13 presents sell and transfer unto [name and address of political subdivision], tax sale
14 title to the property or the undivided interest of the tax debtor therein. The [name of
15 political subdivision] has the right to take possession of the property and become
16 owner of the property pursuant to R.S. 47:2231 through 2237. [Name of the political
17 subdivision] has the right to sell or donate the property pursuant to R.S. 47:2201,
18 2211 and 2237. The property may be redeemed pursuant to the provisions of R.S.
19 47:2241 through 2247.

20 IN TESTIMONY WHEREOF, I have hereunto signed my name officially at
21 _____, Parish of _____, in the presence
22 of the two undersigned competent witnesses, who also signed this _____ day of
23 _____ [Month], _____ [Year].

24 Witnesses:

25 _____
26 Printed Name: _____ [Name of Tax Collector]
27 _____
28 Printed Name: _____ [Name of Political Subdivision]
29 By: _____"

30 B. A certified copy of the tax sale certificate is prima facie evidence of the
31 regularity of all matters regarding the tax sale and the validity of the tax sale.

1 minimum bid at the second sale shall be one-third the appraised value of the
2 property.

3 Comments – 2008

4 (a) This Section is new. It sets the minimum bid for sales of adjudicated
5 property.

6 (b) The minimum bid can be the total amount of all statutory impositions,
7 including statutory impositions of other political subdivisions affecting the property,
8 plus the total amount of governmental liens plus the costs of sale. If the political
9 subdivision uses this amount as the minimum bid, there is only one public sale. If
10 the minimum bid is not met, there is no sale.

11 (c) Alternatively, the minimum bid can be based on the appraised value. In
12 this case, there can be two sets of bidding. At the first public sale the minimum bid
13 must be two-thirds of the appraised value. If there is no bid of at least two-thirds the
14 appraised value, there is a second public sale where the minimum is one-third of the
15 appraised value. In order to determine the appraised value, the political subdivision
16 must appoint a licensed appraiser.

17 (d) If the adjudicated property is encumbered by numerous governmental
18 liens and outstanding statutory impositions so that the amounts due are near or
19 exceed the value of the property, the political subdivision should consider using the
20 appraised value in determining a minimum bid.

21 §2203. Pre-bidding procedures; sale of adjudicated property

22 A. Initiation by political subdivisions. A political subdivision may provide
23 by ordinance for the sale of adjudicated property at a public sale and may include the
24 date for the sale in the ordinance. However, the date of the sale may be provided by
25 a subsequent ordinance, or the date may be set administratively by the political
26 subdivision.

27 B. Initiation by persons. (1) Whenever any person desires to initiate the
28 public sale of adjudicated property and the political subdivision desires to sell, the
29 person shall deposit an amount determined by the political subdivision to be
30 sufficient to cover the expenses of the sale, including advertising, appraisals, and
31 other costs associated with the sale.

32 (2) Should the depositor at the sale fail to be the highest bidder, the money
33 deposited shall be returned to him. However, if no one at the sale bids up to the
34 minimum price provided in this Subpart, then the money shall be retained to pay the
35 expenses of the sale, but any money remaining after the expenses are paid shall be
36 returned to the depositor.

1 Tax sale title to the above described property has been sold for failure to pay
2 taxes. You have been identified as a person who may have an interest in this
3 property.

4 Your interest in the property **will be terminated** if you do not redeem the
5 property by making all required payments to the tax collector listed below or file a
6 lawsuit in accordance with law within [60 days] [6 months] of the date of this notice,
7 or the recording of an act transferring ownership, if later.

8 [Tax collector name, address, telephone number]"

9 B.(1) Either the political subdivision or the acquiring person shall cause to
10 be published in the official journal of the political subdivision a notice that any tax
11 sale party whose interest the successful bidder or donee intends to be terminated has,
12 to redeem the property, until the later of:

13 (a) Sixty days, for property on which a tax sale certificate was filed over five
14 years previous of the first publication, or six months if the tax sale certificate was
15 filed less than five years before the first publication of the notice provided for in this
16 Subsection.

17 (b) The filing of the sale or donation transferring the property.

18 (2) The publication shall be sufficient if it is in the following form:

19 "NOTICE

20 [Names of Tax Sale Parties]

21 THIS NOTICE BY PUBLICATION IS NOTIFICATION THAT YOUR
22 RIGHTS OR INTEREST IN THE FOLLOWING DESCRIBED PROPERTY
23 LOCATED IN _____, LOUISIANA MAY BE TERMINATED
24 BY OPERATION OF LAW IF YOU DO NOT TAKE FURTHER ACTION IN
25 ACCORDANCE WITH LAW:

26 [Brief legal description of property]

27 Improvements thereon bear Municipal No. _____.

1 or donation, the acquiring person, or his successors and assigns, may send to the
2 political subdivision a written notice requesting that the political subdivision
3 authenticate a sale or donation. The political subdivision shall authenticate the sale
4 or donation within ten days from the date of the request or as soon thereafter as
5 practical. The acquiring person shall be responsible for filing the sale or donation
6 and payment of all filing fees. The only warranty owed by the political subdivision
7 shall be a warranty against eviction resulting from a prior alienation by the political
8 subdivision. Otherwise, all sales and donations shall be without warranty, either
9 expressed or implied, even as to return or reduction of the purchase price, including
10 without limitation the warranty against redhibitory defects or vices and the warranty
11 that the thing sold is reasonably fit for its ordinary purpose or the acquiring person's
12 intended or particular purpose. These waivers or exclusions of warranties shall be
13 self-operative regardless of whether the waivers or exclusions are contained in the
14 act of sale or donation, and regardless of whether they are clear and unambiguous,
15 and regardless of whether they are brought to the attention of the acquiring person.
16 This provision supersedes the requirements of any other law.

17 B. The writing constituting the sale shall be sufficient if it is a writing in the
18 following form:

19 "NON-WARRANTY CASH SALE
20 STATE OF LOUISIANA
21 PARISH OF _____

22 BE IT KNOWN, on the dates written below before the undersigned Notaries
23 Public, duly commissioned and qualified in their respective parishes, personally
24 came and appeared:

25 [NAME OF POLITICAL SUBDIVISION],

26 a political subdivision of the State of Louisiana, represented herein by
27 _____, authorized by virtue of the attached ordinance of [name
28 of governing body for the political subdivision], referred to as "Seller", who declared
29 that:

1 may file with the recorder of mortgages of the parish in which the property is located
2 an affidavit indicating how the tax sale parties whose interest the acquiring person,
3 his successors, or assigns, intends to be terminated were identified, how the address
4 of each tax sale party was obtained, how the written notice was sent, the results of
5 sending the written notice, and the dates of publication. The affidavit may also
6 contain a statement of the interest to which the purchaser or donee takes subject. The
7 recorder of mortgages shall index the affidavit only under the names of the owner
8 filing the affidavit and the tax debtor, as mortgagors. The affidavit shall be sufficient
9 if it is in the following form:

<p>10 <u>"AFFIDAVIT</u> 11 <u>BY</u> 12 <u>[NAME OF AFFIANT]</u></p>	<p><u>UNITED STATES OF AMERICA</u> <u>STATE OF LOUISIANA</u> <u>PARISH OF _____</u></p>
--	---

13 This affidavit shall be indexed under each of the following names as
14 mortgagor:

- 15 (a) [Name of owner causing the filing of the affidavit]
16 (b) [Name of tax debtor]

17 BE IT KNOWN, on the _____ day of _____ [MONTH],
18 _____ [YEAR].

19 BEFORE ME, the undersigned notary public, duly qualified in and for the
20 state and parish aforesaid, and in the presence of the undersigned competent witness,
21 PERSONALLY CAME AND APPEARED:

22 _____ [name of affiant], major
23 domiciliary of the Parish of _____, State of
24 Louisiana ("affiant"), who, after being duly sworn, deposed and stated that on his
25 personal knowledge:

- 26 1. Affiant personally examined [name of abstract] [title certificate] [the
27 public records] (the "abstract") affecting the following described immovable
28 property located in the Parish of _____, State of Louisiana (the
29 "property"):

1 [Legal description of property]

2 2. A review of the abstract by the Affiant revealed the following persons or
3 entities with an interest in the property, which such interest being listed beside the
4 name:

<u>Name</u>	<u>Interest in property</u>	<u>Recordation information</u>

6 3. Affiant reviewed the documents listed in the abstract, the telephone book
7 published by [name of telephone book publisher] for the Parish of
8 _____ dated for use until [date], and utilized all the resources under
9 [list other examination resources, including Internet search engines, if any], and the
10 search revealed the following last known addresses for the persons listed in Item 2
11 above:

<u>Name</u>	<u>Address</u>

13 4. Affiant reviewed the records of the Louisiana Secretary of State and the
14 secretary of state of the states set forth by the names of the entities listed below, and
15 the search revealed the following addresses for the entities listed in Item 2 above:

<u>Name</u>	<u>State</u>	<u>Address</u>

17 5. Affiant caused to be sent a written notice notifying the persons or entities
18 listed in Item 2 above at the addresses listed in Items 3 and 4 above. A sample of the
19 form of the written notice is attached and satisfied R.S. 47:2206(A).

20 6. The method and results of the notifications set forth in Item 5 above are
21 listed by name and address as follows:

<u>Name</u>	<u>Method</u>	<u>Results</u>

1 and statutory impositions of political subdivisions other than the donee political
2 subdivision.

3 D. Upon filing of the affidavit, the recorder of mortgages or the recorder of
4 conveyances shall treat as canceled, terminated, released, or erased, all those liens,
5 privileges, mortgages or other encumbrances canceled, terminated, released or erased
6 under Subsection B or C of this Section, only insofar as they affect the property.

7 E. The owner filing the affidavit shall be liable to and indemnify the recorder
8 of mortgages, the recorder of conveyances, and any other person relying on the
9 cancellation, termination, release, or erasure by affidavit for any damages that they
10 may suffer as a consequence of such reliance if the recorded affidavit contains
11 materially false or incorrect statements that cause the recorder to incorrectly cancel,
12 terminate, release, or erase any interest listed in the affidavit. The recorder of
13 mortgages and the recorder of conveyances shall not be liable for any damages
14 resulting to any person or entity as a consequence of the cancellation, termination,
15 release, or erasure of any interest in compliance with this Section.

16 Comment – 2008

17 This Section is new. It is substantially similar to R.S. 47:2157 (D), (E), (F)
18 and (G). See the Comments to R.S. 47:2157. The only substantive difference is the
19 statutory impositions and governmental liens cancelled by the filing. In case of the
20 sale of adjudicated property, all statutory impositions, including statutory
21 impositions of other political subdivisions, as well as all governmental liens, are
22 terminated, since the proceeds of the sale will either be sufficient to pay these or
23 these will be divided pro rata between the holders of the statutory impositions and
24 governmental liens. See R.S. 47:2202(1) and 2211. In the case of a donation, only
25 the statutory impositions and governmental liens of the donee political subdivision
26 are cancelled.

27 §2209. Sale or donation to tax debtor

28 Notwithstanding any provision of law to the contrary, when a tax debtor or
29 an owner participates, directly or indirectly, in a post-adjudication sale or donation
30 during or subsequent to expiration of the redemptive period, it shall be treated as a
31 redemption, and the tax debtor or owner shall be required to pay all taxes and costs
32 in accordance with all laws applicable to redemptions. However, if the property is
33 redeemed, all mortgages, liens, privileges, and other encumbrances affecting the
34 property prior to the sale shall remain in full force and effect with the same validity

1 and priority as if the sale had not occurred.

2 Comments – 2008

3 (a) This Section is not intended to change the law.

4 (b) This Section provides that a tax debtor or owner cannot use the sale or
5 donation of adjudicated property process to clear the property of encumbrances. The
6 words "directly or indirectly" mean that the tax debtor or owner cannot use agents,
7 other entities, or similar arrangements to circumvent this Section.

8 (c) If the tax debtor or owner does use the process, then the sale or donation
9 is treated as a redemption. See R.S. 47:2241 et seq.

10 §2210. Liability of owner of adjudicated property

11 While property remains adjudicated property, the current owner remains
12 liable as owner of the property under applicable law. The political subdivision is not
13 liable solely as owner of the property.

14 Comments – 2008

15 (a) This Section reproduces the substance of R.S. 33:4720.33. It is not
16 intended to change the law.

17 (b) While property remains on the adjudicated rolls the then current owner
18 of the property remains liable as owner of the property. Liability is not imposed on
19 the political subdivision solely as a result of holding tax sale title to the property.

20 §2211. Disposition of proceeds of sale of adjudicated property

21 Except as otherwise agreed by the holders of the statutory impositions and
22 governmental liens, all proceeds from the sale of adjudicated property after
23 deduction of the costs of the sale shall be paid pro rata to those holders, and any
24 amount in excess of the costs, statutory impositions, and governmental liens shall be
25 paid to the selling political subdivision.

26 Comments – 2008

27 (a) This Section is new. It is designed as a default rule for the distribution
28 of the proceeds of the sale of adjudicated property.

29 (b) If the successful bid equals the amount of outstanding statutory
30 impositions, including statutory impositions of non-selling political subdivisions, and
31 statutory liens plus costs of sale, this Section provides that all holders are paid in full.
32 The problem arises when the successful bid is insufficient to cover the outstanding
33 statutory impositions and governmental liens because these items are cancelled by
34 the sale. In that case, the default rule is that the costs of the selling political
35 subdivision are deducted and the proceeds are split pro rata, by the amounts of the
36 statutory impositions or governmental liens, not by head. Any surplus is paid to the
37 selling political subdivision.

1 (c) This Section may be varied by agreement between political subdivisions
2 that hold statutory impositions and government liens that overlap on the same
3 property. See Comment (b) to R.S. 47: 2160.

4 SUBPART C. POLITICAL SUBDIVISIONS ACQUIRING OWNERSHIP

5 §2231. Suit to obtain possession of property adjudicated to political subdivision

6 After the tax sale certificate for adjudicated property is filed with the recorder
7 of conveyances, the political subdivision may institute a suit in the district court of
8 the parish in which the property is located to obtain possession of the adjudicated
9 property. The suit shall be tried by summary proceeding and shall be prosecuted
10 without costs of court to the political subdivision. Whenever revenue is received
11 from the adjudicated property as provided in this Subpart, the political subdivision
12 shall pay the court costs out of the first revenue received.

13 Comment – 2008

14 This Section reproduces the substance of R.S. 33:2862 and is not intended to
15 change the law.

16 §2232. Order of seizure and possession

17 Upon the presentation of a certified copy of the tax sale certificate, after ten
18 days' notice to the owner and proper hearing, the judge shall grant an order of
19 possession commanding the sheriff to place the political subdivision in actual
20 possession of the adjudicated property.

21 Comment – 2008

22 This Section reproduces the substance of R.S. 33:2863. It is not intended to
23 change the law.

24 §2233. Leasing adjudicated property; use of income to pay taxes or assessments

25 The political subdivision, through its tax collector, upon taking or being
26 placed in possession by judgment of court may, without the necessity of public
27 letting, lease the adjudicated property on commercially reasonable terms and collect
28 rentals. The political subdivision shall apply the rentals first to the payment of all
29 costs of court incurred in the proceeding. Thereafter, all rental income shall be
30 applied against any taxes, charges imposed pursuant to R.S. 33:1236, or paving or
31 other local improvement assessments due against the property. When all of the

1 obligations have been paid in full, the political subdivision shall issue a proper
2 certificate of redemption and surrender its possession of the property.

3 Comment – 2008

4 This Section reproduces the substance of former R.S. 33:2864. It is not
5 intended to change the law.

6 §2234. Redemption of property; payment of assessments

7 Whenever any property has been adjudicated to a political subdivision for the
8 full amount of the past and future installments of paving or other local improvement
9 assessments, the owner of the property may be permitted, upon written request, to
10 redeem the property by paying the past due and current installments only, together
11 with interest, costs, and penalties. In this event, the remaining and future
12 installments of the charges shall be collected as they fall due, and the lien shall
13 remain unaffected and shall be valid and effective against the property until fully
14 paid.

15 Comment – 2008

16 This Section reproduces the substance of R.S. 33:2876. It is not intended to
17 change the law.

18 §2235. Authority of the political subdivision to establish servitudes over adjudicated
19 property; procedure

20 A. The political subdivision may maintain apparent servitudes over
21 adjudicated property and may, after the redemptive period, declare the existence of
22 any public servitude as though by destination of the owner, regardless of whether the
23 servitude is apparent or nonapparent.

24 B. A public servitude by destination of the owning political subdivision may
25 be declared in writing upon authorization by ordinance duly enacted after public
26 promulgation. The ordinance and act may be filed with the recorder of conveyances
27 of the parish and may show the name of any prior owners of the property for
28 indexing as vendor.

29 C. If a servitude has been declared in accordance with this Section and the
30 property is redeemed, the owning political subdivision shall compensate the

1 redeeming owner for the value of the servitude declared. The compensation shall be
2 in accordance with the provisions of the Louisiana Constitution. Value shall be
3 determined as of the date on which the ordinance and act are filed as required by
4 Subsection B of this Section.

5 Comment – 2008

6 This Section reproduces the substance of former R.S. 33:2878. It is not
7 intended to change the law.

8 §2236. Claim of ownership of adjudicated property by political subdivision

9 A. Whenever property or tax sale title to property is adjudicated to a political
10 subdivision, the political subdivision may declare, by ordinance duly enacted, that
11 the political subdivision intends to acquire a full ownership interest in the property.

12 B. A copy of the ordinance shall be filed with the recorder of mortgages.
13 The recorder shall index the names of the tax debtor and the political subdivision as
14 mortgagees. A transfer, mortgage, lien, privilege, or other encumbrance filed after
15 the filing of the ordinance shall not affect the property. The recorder of mortgages
16 or recorder of conveyances shall cancel, erase, terminate, or release the acts upon the
17 request of the political subdivision.

18 C.(1) Political subdivisions that intend to acquire full ownership in property
19 as provided in this Section shall, within thirty days after the filing of the instrument
20 and ordinance described in Subsection B of this Section, or as soon thereafter as
21 practical, send a written notice regarding the acquisition to the tax sale parties whose
22 interest the political subdivision intends to be terminated that the party has until the
23 applicable time period set forth below to redeem the property or otherwise challenge
24 in a court of competent jurisdiction the acquisition:

25 (a) Sixty days after the date of the notice, if five years have elapsed from the
26 filing of the tax sale certificate.

27 (b) Six months after the date of the notice, if five years have not elapsed
28 from the filing of the tax sale certificate.

29 (2) If this notice is given after the expiration of the applicable redemptive
30 period, this notice shall constitute a notice of sale. The sending of this notice shall

1 constitute service of the notice of sale under Article VII, Section 25 of the
2 Constitution of Louisiana. The notice required by this Section shall be sufficient,
3 and it shall not be necessary to determine whether notice of the tax sale or any other
4 notice was given. The notice shall be sufficient if it is in the following form:

5 **"This is an important legal notice.**

6 **Please read it carefully. You will receive no further notice.**

7 [Date]

8 [Name]

9 [Address]

10 [City], [ST] [Zip]

11 RE: Property: [PropertyAddress]

12 [DescriptionofPropertyAbbr]

13 Parish of _____, State of Louisiana

14 Tax sale title to the above described property has been adjudicated to [name
15 of political subdivision] for failure to pay taxes.

16 [Name of political subdivision] now intends to acquire full ownership in the
17 above described property. You have been identified as a person who may have an
18 interest in this property.

19 Your interest in the property **will be terminated** if you do not redeem the
20 property by making all required payments to the tax collector listed below, or file a
21 lawsuit within [60 days] [6 months] of the date of this notice.

22 [Tax collector name, address, and telephone number]"

23 D.(1) The political subdivision shall cause to be published in the official
24 journal of the political subdivision a notice that any tax sale party whose interest the
25 political subdivision intends to be terminated has until the applicable time period set
26 forth below to redeem the property or otherwise challenge in a court of competent
27 jurisdiction the acquisition:

28 (a) Sixty days, for property on which a tax sale certificate was filed over five
29 years before the first publication.

1

<u>Name</u>	<u>State</u>	<u>Address</u>

2

5. Affiant caused to be sent a written notice notifying the persons or entities listed in Item 2 above at the addresses listed in Items 3 and 4 above. A sample of the form of the written notice is attached and satisfied R.S. 47:2236(C).

3

4

5

6. The method and results of the notifications set forth in Item 5 above are listed by name and address as follows:

6

<u>Name</u>	<u>Method</u>	<u>Results</u>

7

8

7. Notification was also published in [journal of general circulation for the political subdivision] on [list dates] [and was posted on the property]. The form of the publications is attached and satisfied R.S. 47:2236(D).

9

10

8. Pursuant to R.S. 47:2236(G), the following interests are cancelled, terminated, erased or released, as applicable, only insofar as they affect the property:

11

<u>Name of Interest Holder</u>	<u>Name of Instrument</u>	<u>Recordation Information</u>

12

13

THUS DONE AND PASSED on the day, month and year set forth above, in the presence of the undersigned competent witness, who have signed their names with Affiant, and me, notary, after reading of the whole.

14

15

WITNESSES:

AFFIANT:

16

Printed Name:

Printed Name:

17

Printed Name:

18

NOTARY PUBLIC
 Printed Name: _____
 Notary/Bar Roll No.: _____ "

19

G. The filing of the affidavit provided in this Section with the recorder of

1 mortgages of the parish in which the property is located shall operate as a
2 cancellation, termination, release, or erasure of record of all statutory impositions of
3 all political subdivisions then due and owing, of all governmental liens, and of all
4 interests, liens, mortgages, privileges, and other encumbrances recorded against the
5 property sold and listed in the affidavit.

6 H. Upon filing of the affidavit, the recorder of mortgages or the recorder of
7 conveyances shall treat as canceled, terminated, released, or erased, all those liens,
8 privileges, mortgages, or other encumbrances canceled, terminated, released, or
9 erased under Subsection G of this Section, only insofar as they affect the property.

10 I. The political subdivision shall be liable to and indemnify the recorder of
11 mortgages, the recorder of conveyances, and any other person relying on the
12 cancellation, termination, release, or erasure by affidavit for any damages that they
13 may suffer as a consequence of such reliance if the recorded affidavit contains
14 materially false or incorrect statements that cause the recorder to incorrectly cancel,
15 terminate, release, or erase any interest as provided in the affidavit. The recorder of
16 mortgages and the recorder of conveyances shall not be liable for any damages
17 resulting to any person or entity as a consequence of the cancellation, termination,
18 release, or erasure of any interest in compliance with this Section.

19 Comments – 2008

20 (a) This Section and the following Sections are based on former R.S. 33:
21 2877. It modifies existing law in part to make the procedures utilized by a political
22 subdivision to obtain full ownership interest substantially similar to those procedures
23 used by a purchaser of tax sale property, or a purchaser or donee of adjudicated
24 property to obtain full ownership and merchantable title.

25 (b) This Section eliminates the requirement that property be adjudicated for
26 three years prior to utilizing this process. It can be done at any time; however, if a
27 political subdivision uses the process prior to the expiration of the applicable
28 redemptive period, the property may still be redeemed until the redemptive period
29 expires.

30 (c) This Section also eliminates the requirement of "public purpose" under
31 former R.S. 33: 2877 since it was defined so expansively as any "economic
32 development." This restriction was viewed as unnecessary and a possible
33 impairment to merchantability.

34 (d) Subsection A requires that the political subdivision pass an ordinance
35 declaring the intention to acquire a full ownership interest. Subsection B requires
36 that the ordinance be filed with the recorder of mortgages to be indexed under the

1 name of the tax debtor and political subdivision only. The recordation cuts off any
2 future encumbrances like the filing of a notice letter under other provisions of this
3 Chapter. See 47: 2157(C).

4 (e) Subsections C and D are the substantially similar to R.S. 47:2157 (A) and
5 (B). See the Comments to R.S. 47:2157. The one substantive difference is that since
6 the property is adjudicated property, a duly notified person has both the right to
7 redeem or file an action for nullity. Safe harbor forms for both the notice and
8 publication are provided.

9 (f) Subsection E provides for the recordation of a notice by the political
10 subdivision in the conveyance records indicating that the political subdivision has
11 acquired full ownership because the applicable time period to redeem has expired.
12 A safe harbor form notice is provided.

13 (g) Subsection (F), (G), (H) and (I) are substantially similar to 47:2157 (D),
14 (E), (F) and (G). See the Comments to 47:2157. The only substantive difference is
15 that all statutory impositions, including statutory impositions due other political
16 subdivisions, and governmental liens are canceled by this procedure.

17 §2237. Sale or donation of adjudicated property; authority

18 A political subdivision may sell adjudicated property acquired in accordance
19 with R.S. 47:2236 as provided by law. It may donate the property acquired in
20 accordance with R.S. 47:2236 to the extent allowed by the constitution. The
21 provisions of R.S. 41:1338 shall not apply to the property being sold or donated in
22 accordance with R.S. 47:2236.

23 Comment – 2008

24 This Section reproduces the substance of R.S. 33:2864.1 and 2866.1. It is not
25 intended to change the law.

26 PART V. REDEMPTIONS

27 SUBPART A. GENERAL PROVISIONS

28 §2241. Redemptive period preemptive

29 All redemptive periods provided in the Louisiana Constitution shall be
30 preemptive.

31 Comment – 2008

32 This Section is new. It is not intended to change the law. This Section
33 codifies a rule established by *jurisprudence constant*. See e.g., *Harris v. Estate of*
34 *Fuller*, 532 So. 2d 1367 (La. 1988).

35 §2242. Person entitled to redeem

36 Any person may redeem tax sale title to property, but the redemption shall
37 be in the name of the tax debtor.

1 Comment – 2008

2 This Section is new. It is not intended to change the law. Any person may
3 pay the price for a redemption, but the redemption restores title as it was prior to the
4 tax sale. See e.g. *Housing Authority of Shreveport v. Breen*, 10 So. 395 (La. App.
5 2 Cir. 1942); *Blocker v. Continental Security Corp.*, 157 So. 155 (La. App. 2 Cir.
6 1934); *Stockbridge v. Martin*, 4 La. App. 410 (2 Cir. 1926). The concept of
7 subrogation under former R.S. 47:2105 has been eliminated.

8 §2243. Redemption payments

9 Redemptions shall be made through the tax collector of the appropriate
10 political subdivision. Payment shall include all statutory impositions accruing before
11 the date of payment with a five percent penalty and simple interest accruing at one
12 percent per month, as well as all other sums required to be paid pursuant to this
13 Subpart.

14 Comments – 2008

15 (a) This Section is new. It changes the law in part. It provides that
16 redemption is made only through the tax collector. Redemptions may no longer be
17 made through or by negotiation with the tax sale purchaser, particularly since the tax
18 sale purchaser is no longer entitled to costs. This change eliminates the potential of
19 abuse by a tax sale purchaser by overwhelming the redeeming person with so called
20 costs and other fees. Since the tax sale purchaser is no longer entitled to costs as part
21 of a redemption, the redemption should take place through the tax collector without
22 any involvement of the tax sale purchaser. Of course, the tax collector must send the
23 amount of the bid price plus the interest and penalties to the tax sale purchaser.

24 (b) The Section further requires that the person redeeming pay not only the
25 amount due plus interest and penalties for the year of the tax sale, but also all
26 subsequent statutory impositions, plus a five percent penalty and one percent interest
27 per month to the extent not paid by the tax debtor. See *Op. Atty. Gen, Feb 15, 1967*.
28 To the extent subsequent statutory impositions remain unpaid, the tax collector is
29 entitled to retain the additional funds to satisfy these amounts due. To the extent the
30 tax sale purchaser paid the subsequent statutory impositions, the tax sale purchaser
31 is entitled to reimbursement of these amounts, plus interest and penalties.

32 (c) The former rule allowing a person to redeem only a portion of the tax
33 parcel has been eliminated.

34 §2244. Additional payments to political subdivision

35 Payment also shall include the actual costs incurred by the political
36 subdivision for the cost of mail, notice, publication of notice, personal service of
37 notice, appraisal, and costs associated with the determination of tax sale parties and
38 their notification. The political subdivision may also require the payment of all
39 amounts accrued under other governmental liens as of the date of payment.

40 Comment – 2008

1 Comment – 2008

2 This Section is based on former R.S. 47:2222(C). It modifies the law in part.
3 Since the payment of the redemption price is no longer allowed to be made directly
4 to the tax sale purchaser, only the tax collector can issue a redemption certificate.
5 A safe harbor redemption certificate form is provided.

6 SUBPART B. ADJUDICATED PROPERTY

7 §2246. Statutory right to redeem adjudicated property

8 For property adjudicated to a political subdivision, after the expiration of the
9 applicable redemptive period, any person may redeem tax sale title to property in the
10 name of the tax debtor until any of the following shall occur:

11 (1) The later of sixty days or six months, as applicable, after the notice
12 required by R.S. 47:2206, or the filing of the sale or donation transferring the
13 property from the political subdivision pursuant to R.S. 47:2201 et seq.

14 (2) The granting of the order of possession pursuant to R.S. 47:2232.

15 (3) Sixty days or six months, as applicable, after the notice required by R.S.
16 47:2236.

17 Comment – 2008

18 This Section is new. It codifies current practice. As long as property remains
19 on the adjudicated rolls, and neither a political subdivision nor an acquiring person
20 has obtained full ownership, the property may be redeemed as a matter of statutory
21 right even though the redemptive period under the Louisiana Constitution has
22 expired.

23 §2247. Redemption of adjudicated property; additional payments

24 The person redeeming property adjudicated to a political subdivision shall
25 pay also the actual costs incurred by the political subdivision and any acquiring
26 person for the costs of all certified mail, notice, publication of notice, or personal
27 services of notices in complying with the applicable provisions of law, including,
28 without limitation, determination of tax sale parties and the notification of such
29 persons of the sale or donation as allowed by law.

30 Comment – 2008

31 This Section is new. It modifies the law in part. The political subdivision or
32 an acquiring person of adjudicated property to the extent either has initiated the
33 process to acquire full ownership in adjudicated property are allowed to be
34 reimbursed certain costs as part of the redemption price. Tax sale purchasers are not
35 allowed this reimbursement right.

1 PART VI. PROCEDURES TO QUIET TAX TITLE2 SUBPART A. PROCEEDING TO QUIET TITLE3 §2266. Procedure to quiet tax titles

4 A.(1) After expiration of the redemptive period, an acquiring person may
5 institute an ordinary proceeding against the tax sale parties whose interests the
6 petitioner seeks to be terminated. The petition shall contain a description of the
7 property, the time and place of the sale, and the name of the officer who made the
8 sale, the page and record book and date of filing of the tax sale certificate, and for
9 adjudicated properties sold or donated by a political subdivision, reference to the
10 page of record book and date of filing of the sale or donation, notice that the
11 petitioner is the holder of tax sale title to the property by virtue of tax sale or is the
12 owner of the property by virtue of a sale or donation of adjudicated property, and
13 notice that the title and full ownership in the property will be confirmed unless a
14 proceeding to annul is instituted within six months after the date of service of the
15 petition and citation. This suit shall be brought in the parish in which the property
16 is located unless it lies in two or more parishes, in which case this suit may be
17 instituted in either of the parishes.

18 (2) The petition and citation shall be served as in ordinary suits; however,
19 if a tax sale party is a nonresident of the state, is unknown, or his residence is
20 unknown, the court shall appoint a curator ad hoc to represent him and receive
21 service. The curator shall receive a reasonable fee for his services to be fixed by the
22 court in each suit, which shall be taxed as costs of suit. If no proceeding to annul the
23 sale has been instituted after the lapse of six months after the date of service of
24 petition and citation, judgment shall be rendered quieting and confirming the title
25 and the full ownership interest therein.

26 B. In all cases when tax titles have been quieted by prescription of five years
27 under the provisions of Article VII, Section 25 of the Louisiana Constitution, the
28 purchaser, donee, or his heirs or assigns may, either obtain a judgment of the court
29 confirming the title by suit in the manner and form in Subsection A of this Section,

1 except that the delay for answer shall be ten days instead of six months, provided that
2 the failure to bring suit shall in no manner affect such prescriptive titles.

3 C. The petitioner may file a notice of lis pendens with the recorder of
4 mortgages of the parish in which the property is located. A transfer, mortgage, lien,
5 privilege, or other encumbrance filed after the filing of the notice of lis pendens shall
6 not affect the property. The recorder of mortgages or the recorder of conveyances
7 shall cancel, erase, terminate, or release the acts upon request of the petitioner.

8 Comment – 2008

9 This Section reproduces the substance of and combines former R.S. 47:2228
10 and 2228.1. Subsection B allows the petitioner to file a notice of lis pendens. An
11 encumbrance filed after the filing of the notice of lis pendens does not affect the
12 property.

13 SUBPART B. MONITION PROCEEDINGS

14 §2271. Availability of monition

15 In addition to all other procedures, after the expiration of the applicable
16 redemptive period, an acquiring person may protect himself from eviction from the
17 property to which ownership or tax sale title has been transferred by filing a petition
18 for monition in the district court of the parish in which the property is located in
19 accordance with the following Sections.

20 Comments – 2008

21 (a) This Section is new. It changes the law in part. Monition proceedings
22 under R.S. 13:4941 et seq. were previously available for tax sales under R.S. 13:4941
23 which has been repealed by this revision.

24 (b) The Section clarifies the law by clearly making a monition available to
25 political subdivisions acquiring full ownership and other persons to whom
26 adjudicated property has been sold or donated.

27 (c) This Section overrules certain cases holding that monition proceedings
28 are not available until after the expiration of the five year prescriptive period
29 contained in La. Const. Art. VII, § 25. *See In re Raz*, 871 So. 2d 363 (La. App. 1
30 Cir. 2004); *Gunter v. Moore*, 838 So. 2d 118 (La. App. 3 Cir. 2003). Under this
31 Section a monition can be brought after the expiration of the applicable redemptive
32 period.

33 §2272. Contents of petition

34 The petition for monition shall state the manner of acquisition. The petitioner
35 shall attach to the petition a certified copy of the tax sale certificate, donation, or

1 other title instrument under which the property or tax sale title was obtained from the
2 political subdivision and a certified copy of the sale, donation, or other title
3 instrument under which the petitioner obtained title or tax sale title to the property,
4 if different.

5 Comment – 2008

6 This Section is based on R.S. 13:4943. It is not intended to change the law.
7 §2273. Grant of monition

8 The clerk shall, on application of the buyer or donee, grant this monition in
9 the name of the state and affix to it the seal of the court.

10 Comment – 2008

11 This Section is based on R.S. 13:4944. It is not intended to change the law.
12 §2274. Lis pendens

13 The petitioner may file a notice of lis pendens of the monition proceeding
14 with the recorder of mortgages of the parish in which the property is located. A
15 transfer, mortgage, lien, privilege, or other encumbrance filed after the filing of the
16 notice of lis pendens shall not affect the property. The recorder of mortgages or the
17 recorder of conveyances shall cancel, erase, or terminate, as applicable, the acts on
18 the request of the petitioner.

19 Comments – 2008

20 This Section is new. It allows the petitioner to file a notice of lis pendens.
21 Any encumbrance filed after the filing of the notice of lis pendens does not affect the
22 property.

23 §2275. Notice

24 A.(1) After filing the petition, the petitioner shall send a written notice to all
25 tax sale parties whose interest the petitioner intends to be terminated containing the
26 information set forth in the form provided in Subsection B of this Section. The
27 written notice shall provide that the parties have until the later of the following to
28 show cause why grounds exist for a nullity under this Chapter:

29 (a) Six months after the first publication of the notice provided in R.S.
30 47:2276, if the proceeding is brought less than five years after filing the tax sale

1 certificate.

2 (b) Sixty days after the first publication of the notice provided in R.S.
3 47:2276, if the proceeding is brought five years or more after the filing of the tax sale
4 certificate.

5 (2) If the notice is sent after the expiration of the redemptive period, this
6 notice shall constitute a notice of sale. The sending of this notice shall constitute
7 service of the notice of sale, under Article VII, Section 25 of the Louisiana
8 Constitution.

9 B. This written notice shall be sufficient, and it shall not be necessary to
10 determine whether any notice of tax sale or other notices were given. The written
11 notice shall be sufficient if it is in the following form:

12 **"This is an important legal notice.**

13 **Please read it carefully. You will receive no further notice.**

14 [Date]

15 [Name]

16 [Address]

17 [City], [ST] [Zip]

18 RE: Property: [PropertyAddress]

19 [DescriptionofPropertyAbbr]

20 Parish of _____, State of Louisiana

21 You have been identified as a person who may have an interest in the above
22 described property.

23 Your rights or interest in the property **will be terminated** if you do not take
24 action.

25 A lawsuit known as a Petition for Monition pursuant to R.S. 47: 2271 et seq.
26 has been filed affecting the referenced property (the "property") in the proceeding
27 entitled In Re [name of petitioner] under docket number [docket no.] of the [name
28 of court], Parish of _____, State of Louisiana (the "monition
29 proceeding") by [name of petitioner], which purchased the property pursuant to

1 recorded on [date of filing] [recordation information] of the official records of
2 _____ Parish, Louisiana, purchased property [at tax sale] [from the {name of
3 political subdivision}, Louisiana adjudicated to the political subdivision for unpaid
4 property taxes or other matters];

5 WHEREAS, [TaxDeedHolder] has applied to this Court for a monition or
6 advertisement, in conformity with R.S. 47:2271 et seq.

7 THEREFORE, in the name of the State of Louisiana and the [Name of Court]
8 for the Parish of _____, all interested persons are cited and
9 admonished to show cause within [sixty (60) days] [six (6) months] from the date on
10 which this monition is first advertised, why grounds exist for a nullity under the
11 provisions of Chapter 5 of Subtitle III of Louisiana Revised Statutes Title 47.

12 The property affected by this monition is:

13 [Description of Property]
14 Improvements thereon bear Municipal No. _____ [PropertyAddress].
15 [Name and address of Clerk]
16 [Name and address of purchaser or attorney for purchaser.]"

17 Comment – 2008

18 This Section is new. It changes the law in part. Under R.S. 13:4942 only
19 thirty days notice by publication is required. Under this Section, either a six month
20 period or a sixty day period is required depending on the time elapsed between the
21 filing of the tax sale certificate and the filing of the monition. A safe harbor form
22 publication is provided.

23 §2277. Affidavit

24 The petitioner shall file in the monition proceeding an affidavit stating how
25 the tax sale parties whose interests the petitioner intends to be terminated were
26 identified, how the addresses of each tax sale party were obtained, how the notice
27 was sent, the results of sending the written notice, and the dates of publication. The
28 affidavit may also contain a statement of the interests to which the petitioner takes
29 subject. The affidavit shall be sufficient if it is in the following form:

1	<u>"AFFIDAVIT</u>	<u>UNITED STATES OF AMERICA</u>
2	<u>BY</u>	<u>STATE OF LOUISIANA</u>
3	<u>[NAME OF AFFIANT]</u>	<u>PARISH OF _____</u>

4 If filed in the mortgage records, this affidavit shall be indexed under each of
5 the following names as mortgagors:

6 (1) [Name of petitioner]

7 (2) [Name of tax debtor]

8 BE IT KNOWN, on the _____ day of _____ [MONTH],
9 _____ [YEAR],

10 BEFORE ME, the undersigned notary public, duly qualified in and for the
11 state and parish aforesaid, and in the presence of the undersigned competent witness;

12 PERSONALLY CAME AND APPEARED:

13 [Name of affiant] major domiciliary of the Parish of _____,
14 State of Louisiana ("affiant"), who after being duly sworn, deposed and stated that
15 on his personal knowledge:

16 Affiant personally examined [name of abstract] or [title certificate] or [public
17 records] (the "abstract") affecting the following described immovable property
18 located in the Parish of _____, State of Louisiana (the "Property"):

19 [Legal description of property]

20 A review of the abstract by the Affiant revealed the following persons or
21 entities with an interest in the property, with such interest being listed beside the
22 name:

<u>Name</u>	<u>Interest in property</u>	<u>Recordation information</u>

24 Affiant reviewed the documents listed in the abstract, the telephone book
25 published by [name of telephone book publisher] for the Parish of
26 _____ dated for use until [date], or utilized all the resources under
27 [list other examination resources, including Internet search engines, if any], and the

1 search revealed the following last known addresses for the persons listed in Item 2
2 above:

<u>Name</u>	<u>Address</u>

4 Affiant reviewed the records of the Louisiana Secretary of State and the
5 secretary of state of the states set forth by the names of the entities listed below, and
6 the search revealed the following addresses for the entities listed in Item 2 above:

<u>Name</u>	<u>State</u>	<u>Address</u>

8 Affiant caused to be sent a written notice notifying the persons or entities
9 listed in Item 2 above at the addresses listed in Items 3 and 4 above. A sample of the
10 form of the written notice is attached and satisfied R.S. 47:2275(B).

11 The method and results of the notifications set forth in Item 5 above are listed
12 by name and address as follows:

<u>Name</u>	<u>Method of Sending</u>	<u>Results</u>

14 A Petition for monition was filed on [date of filing] under In Re: [name of
15 petitioner] Applying for Monition, Docket No. [docket number], on the docket of the
16 [name of court], State of Louisiana (the "monition proceeding").

17 Pursuant to an order of the court in the monition proceeding, the monition
18 was published in the [journal of general circulation for the political subdivision] on
19 [date(s)] [and was posted on the property]. The form of publication is attached and
20 satisfied.

21 Pursuant to R.S. 47:2280(C), the following interests are canceled, terminated,
22 erased or released, as applicable, only insofar as they affect the property:

<u>Name of Interest Holder</u>	<u>Name of Instrument</u>	<u>Recordation Information</u>

1 Comment – 2008

2 This Section incorporates R.S. 13:4949 in the tax sale monition proceeding.
3 It is not intended to change the law.

4 §2280. Filing of the judgment; affidavit

5 A. The judgment rendered in the monition proceeding may be filed with the
6 recorder of mortgages of the parish in which the property is located.

7 B. The petitioner may file the affidavit provided in R.S. 47:2277 with the
8 recorder of mortgages. The recorder of mortgages shall index the affidavit only
9 under the names of the petitioner and the tax debtor as mortgagors.

10 C. The filing of the affidavit provided in Subsection B of this Section with
11 the recorder of mortgages of the parish in which the property is located shall operate
12 as a cancellation, termination, release, or erasure of record of:

13 (1) All statutory impositions due and owing to the selling or donor political
14 subdivision prior to the date of the original acquisition by a tax sale purchaser or
15 donee of adjudicated property.

16 (2) All statutory impositions of all political subdivisions and all other
17 interests, liens, privileges, and other encumbrances under governmental liens arising
18 prior to the original sale of adjudicated property to the acquiring person, or the filing
19 of the notice required under R.S. 47:2236(E).

20 (3) All interests, liens, mortgages, and other encumbrances recorded against
21 the property and listed in the affidavit, other than governmental liens not included
22 in Paragraph (2) of this Subsection.

23 D. After the filing of the affidavit, the recorder of mortgages or the recorder
24 of conveyances shall treat as canceled, terminated, released, or erased all those liens,
25 privileges, mortgages, or other encumbrances canceled, terminated, released, or
26 erased under Subsection C of this Section.

27 E. The petitioner shall be liable to and indemnify the recorder of mortgages,
28 the recorder of conveyances, and any other person relying on the cancellation,
29 termination, release, or erasure by affidavit for any damages that they may suffer as
30 a consequence of such reliance if the recorded affidavit contains materially false or

1 incorrect statements that cause the recorder to incorrectly cancel, terminate, release,
 2 or erase any interest as provided in the affidavit. The recorder of mortgages and the
 3 recorder of conveyances shall not be liable for any damages resulting to any person
 4 or entity as a consequence of the cancellation, termination, release, or erasure of any
 5 interest in compliance with this Section.

6 Comments – 2008

7 (a) This Section is new. It changes the law in part. Under Subsections A and
 8 B, the petitioner is allowed to file the judgment and the affidavit in the mortgage
 9 records.

10 (b) Subsections C through E are substantially similar to R.S. 47:2157 (E)
 11 through (G). See the Comments to R.S. 47:2157. The only substantive difference
 12 is in Subsection C under which certain statutory impositions and governmental liens
 13 are terminated.

14 (c) The tax sale purchaser and the donee of adjudicated property take free of
 15 only the statutory impositions of the seller or donor political subdivision. In addition
 16 to these items, a purchaser of adjudicated property and a political subdivision
 17 acquiring full ownership take free of the statutory impositions of other political
 18 subdivisions and all governmental liens.

19 PART VII. ACTIONS TO ANNUL

20 §2286. Actions to annul

21 No tax sale shall be set aside except for a payment nullity, redemption nullity,
 22 or a nullity under R.S. 47:2162, all of which are relative nullities. The action shall
 23 be brought in the district court of the parish in which the property is located. In
 24 addition, the action may be brought as a reconventional demand or an intervention
 25 in an action to quiet title under R.S. 47:2266 or as an intervention in a monition
 26 proceeding under R.S. 47:2271 through 2280.

27 Comments – 2008

28 (a) This Section is new. It modifies the law in part.

29 (b) In keeping with the emphasis of the revision, the important notice is a
 30 notice of the right to redeem. Therefore, the only reason a tax sale can be set aside
 31 or declared a nullity is for a redemption nullity, a payment nullity, or a sale to a
 32 prohibited person under R.S. 47:2162. A tax sale can no longer be set aside for
 33 minor procedural violations in noticing the tax sale and in the conduct of the tax sale,
 34 etc.

35 (c) This Section makes clear that all of these nullities are relative nullities
 36 since the nullities can be cured. A claim of a redemption nullity can be cured by the
 37 giving of notice and the passage of time under this Chapter. A claim of a payment

1 nullity can be cured by acquisitive prescription. A violation of R.S. 47:2162 is cured
2 by a sale to a good faith purchaser. An action for nullity under this Chapter is also
3 subject to liberative prescription. See 47:2287. The action may be brought only by
4 a tax sale party whose interest in the property has been adversely affected.

5 (d) A nullity action or action to annul may be brought as its own action, as
6 a reconventional demand or intervention in a suit to quiet title or as an intervention
7 in a monition proceeding.

8 §2287. Time in which to file an action for nullity; defenses

9 A. Any action to annul a tax sale on grounds of a redemption nullity shall be
10 brought before the earlier of:

11 (1) Six months after a person is duly notified using a notice, other than the
12 notice provided in R.S. 47:2156 that is sent between the time that the redemptive
13 period ends and five years after the date of the recordation of the tax sale certificate.

14 (2) If a person is duly notified more than five years after the date of the
15 recordation of the tax sale certificate, sixty days after the person is duly notified.

16 B. An action to annul a tax sale on grounds of a payment nullity shall be
17 brought before the later of:

18 (1) Five years after the recordation of the tax sale certificate.

19 (2) If the person bringing the action was not duly notified at least sixty days
20 before the end of that five-year period, then within sixty days after the date that the
21 person was duly notified.

22 C. When a nullity is asserted as a reconventional demand in a quiet title
23 action or as an intervention in a quiet title action or monition proceeding, the nullity
24 shall be asserted within the time specified for a reconventional demand or
25 intervention in the action or proceeding.

26 D. To the extent the interest of the person asserting a nullity has not been
27 terminated, or if the property remains subject to the interest pursuant to this Chapter,
28 including without limitation R.S. 47:2121(C)(2) or other applicable law, such fact
29 shall be an absolute defense to the action of nullity.

30 Comments – 2008

31 (a) This Section is new. It modifies the law and sets for the time periods in
32 which an action for nullity must be brought.

1 (b) An action for nullity based on a redemption nullity must be brought
2 within six months or sixty days after a person has been duly notified depending on
3 when the notice was sent.

4 (c) An action for nullity based on a payment nullity must be brought five
5 years after the filing of the tax sale certificate if a person was duly notified within the
6 five year period. If the person is duly notified after the five year period, then the
7 action must be brought within sixty days of the date the person was duly notified.

8 (d) In addition to Subsections A and B, actions for nullity brought as a
9 reconventional demand or as an intervention must also be brought within time
10 periods specified for such actions in the applicable proceedings.

11 (e) An absolute defense to an action for nullity is that the property is still
12 subject to the interest of the person claiming such nullity.

13 §2288. Acquisitive prescription

14 The tax sale certificate and the act by which an acquiring person obtains full
15 ownership constitute just title for purposes of acquisitive prescription.

16 Comment – 2008

17 This Section is new. It is not intended to change the law. The Section
18 codifies *jurisprudence constante*. See e.g., *Giddens v. Mobley*, 37 La. Ann. 41 (La.
19 1885); *Soniat v. Donovan*, 43 So. 464 (La. 1907); *Wickoff's Heirs v. Miller*, 19 So.
20 475 (La. 1886).

21 §2289. Effect of judgment

22 A. A judgment based on a payment nullity not only reinstates the interest of
23 the tax debtor, or person claiming ownership through the tax debtor in the property,
24 but also reinstates all interests in the property otherwise terminated, released,
25 canceled, or erased pursuant to this Chapter, to the extent the interest has not
26 otherwise terminated pursuant to its terms or by operation of law.

27 B. Other than as to the tax debtor, or a person claiming ownership through
28 the tax debtor, a judgment for a redemption nullity reinstates the interest of the
29 person claiming the nullity, to the extent the interest has not otherwise terminated
30 pursuant to its terms or by operation of law. A judgment based on a redemption
31 nullity as to the tax debtor, or a person claiming ownership through the tax debtor,
32 reinstates all interests in the property otherwise terminated, released, canceled, or
33 erased pursuant to this Chapter, to the extent the interest has not otherwise
34 terminated pursuant to its terms or by operation of law.

35 Comments – 2008

1 (a) This Section is new. It clarifies the law.

2 (b) A judgment on a payment nullity reinstates all interests that were
3 otherwise terminated pursuant to this Chapter. It does not reinstate an interest that
4 terminated in accordance with its terms, such as a lease that has expired, or an
5 interest that has prescribed, such as a mortgage. See Civil Code Articles 3357 et seq.

6 (c) A judgment on a redemption nullity in favor of the tax debtor or his
7 successor reinstates all interests that were otherwise terminated pursuant to this
8 Chapter. A judgment in favor of an interest holder, other than the tax debtor or his
9 successors, reinstates that person's interest only. The judgment does not reinstate an
10 interest that terminated in accordance with its terms, such as a lease that has expired,
11 or an interest that has prescribed, such as a mortgage. See Civil Code Articles 3357
12 et seq.

13 §2290. Suspensive conditions to effectiveness of judgment

14 A.(1) A judgment annulling a tax sale or other transfer to an acquiring
15 person or his successors based on a payment nullity shall not have effect until all of
16 the following are paid:

- 17 (a) All statutory impositions for which the sale or adjudication was made.
- 18 (b) All subsequent statutory impositions and all other governmental liens,
19 including interest and penalties.
- 20 (c) Ten percent per annum interest on the statutory impositions.

21 (2) These payments shall not be required upon proof of payment of the
22 statutory impositions or governmental liens by the persons in whose favor a nullity
23 is declared.

24 B.(1) A judgment annulling a tax sale or other transfer to an acquiring person
25 or his successors based on a redemption nullity shall not have effect until all of the
26 following are paid:

- 27 (a) All statutory impositions forming the basis of the initial tax sale.
- 28 (b) All subsequent statutory impositions have been paid and all
29 governmental liens.
- 30 (c) All costs.
- 31 (d) A five percent penalty and twelve percent per annum on all statutory
32 impositions.

33 (2) These amounts shall be paid to the tax collector, and the tax collector
34 shall reimburse the tax sale purchaser or the purchaser or donee of adjudicated

1 property to the extent the party has paid the purchase price and the subsequent
2 statutory impositions or governmental liens; otherwise, the amounts shall be paid to
3 the political subdivisions.

4 Comments – 2008

5 (a) This Section is new. It clarifies the law.

6 (b) A judgment annulling a tax sale based on a payment nullity is not
7 effective until the statutory impositions forming the basis of the tax sale are paid, and
8 all other subsequent statutory impositions, other governmental liens, and a 10% per
9 annum interest on the statutory impositions are paid. Payment of these sums is not
10 required if the person claiming the nullity proves that he caused such items to be
11 paid.

12 (c) A judgment annulling an act based on a redemption nullity is not
13 effective until the statutory impositions forming the basis of the tax sale are paid and
14 all other subsequent statutory impositions and other governmental liens are paid.
15 Payment of the costs under R.S. 47:2291, and a 5% penalty and 1% per month
16 interest on all the statutory impositions is required as well. The tax collector is
17 required to reimburse the tax sale purchaser or the acquiring person to the extent the
18 person paid the purchase price and subsequent statutory impositions or governmental
19 liens.

20 §2291. Trial; judgment; costs; improvements

21 A. A nullity action shall be an ordinary proceeding governed by the
22 Louisiana Code of Civil Procedure. Upon conclusion of the action for nullity, the
23 court shall either:

24 (1) Issue a preliminary order that the tax sale, an acquisition of full
25 ownership by a political subdivision, or a sale or donation of adjudicated property,
26 as applicable, will be declared a nullity.

27 (2) Render judgment dismissing the action with prejudice which shall be a
28 final judgment for purposes of appeal.

29 B.(1) The tax sale purchaser, the political subdivision, or the purchaser or
30 donee from a political subdivision shall be presumed to be a good faith possessor of
31 the property.

32 (2) Costs pursuant to Article VII, Section 25 of the Louisiana Constitution
33 and R.S. 47:2290 shall include costs of sending notice, costs of publication, and costs
34 of determining tax sale parties. Costs shall also include amounts set forth in Civil
35 Code Articles 496 and 497, if applicable.

1 (c) Under Subsection B costs include costs incurred in providing notice and
2 in determining tax sale parties, such as the costs of mailing, publication, the abstract
3 or title report, and title examination. Costs also include what would be due a good
4 faith or bad faith possessor under Civil Code Articles 496 and 497, such as the lesser
5 of the costs of the improvements or the enhanced value of the property. Of course
6 the possessor of the property is presumed to be in good faith, but the person claiming
7 the nullity may offer evidence of bad faith.

8 (d) Proof of costs must be made within fifteen days of the issuance of the
9 preliminary order that the tax sale will be declared a nullity. An opposition to such
10 costs must be made within thirty days of the issuance of the preliminary order. A
11 hearing, if necessary, must occur within forty-five days of the issuance of the
12 preliminary order. A judgment declaring a nullity and setting costs must be issued
13 within sixty days of the preliminary order. This judgment is final for purposes of
14 appeal.

15 (e) Subsection C requires payment of the costs within one year of the
16 issuance of the final judgment declaring the tax sale a nullity and setting the costs.
17 This period is suspended while an appeal is pending. Payment of costs must be made
18 within this time period, or else the judgment can be vacated and the case dismissed
19 with prejudice.

20 (f) Subsection D allows the person paying the costs to apply by verified
21 petition or with an accompanying affidavit for an *ex parte* order that the costs have
22 been paid.

23 §2292. Fruits

24 If an acquiring person takes corporeal possession of the property and
25 administers the property, the acquiring person shall have the right to natural fruits,
26 as defined in Civil Code Article 551, that are severed in the ordinary course of
27 business prior to the judgment of nullity becoming effective, and the civil fruits, as
28 defined in Civil Code Article 551, accruing prior to a judgment becoming effective
29 to the extent the fruits are used to pay statutory impositions or governmental liens,
30 or to improve the property.

31 Comment – 2008

32 This Section is new. It clarifies the law. An acquiring person is allowed to
33 retain the natural and civil fruits from the property to the extent the proceeds of the
34 fruits are used to pay the statutory impositions and governmental liens.

35 Section 2. R.S. 13:4951, Subparts E, F, and G of Part II of Chapter 6 of Title 33,
36 comprised of R.S. 33:2861 through 2892.9, Chapters 13A, 13B, and 13C of Title 33,
37 comprised of R.S. 33:4720.11 through 4720.49, Part II of Chapter 4 of Subtitle III of Title
38 47, comprised of R.S. 47:2101 through 2114, and Parts I, II, and III of Chapter 5 of Subtitle
39 III of Title 47, comprised of R.S. 47:2171 through 2194, 2221 through 2230, and 2251

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 through 2262, are hereby repealed in their entirety.

2 Section 3. This Act shall become effective on January 1, 2009.

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)]

Burrell

HB No. 337

Abstract: Revises the procedures on property tax payment and collection, tax sales, and adjudicated property.

MAJOR CHANGES

This proposed revision of the law on property tax payment and collection procedure, tax sales, and adjudicated property amends, restates, and reorganizes the law so as to encourage the payment and efficient collection of property taxes, satisfy the requirements of due process, provide a fair process for the redemption of tax sale, and adjudicated property and otherwise encourage the return to commerce of such properties, and to retain existing procedures not inconsistent with the proposed revision. The law on tax sales and redemptions is consolidated into a new Chapter 5 of Subtitle III of Title 47, divided into seven Parts, with new numbering, all replacing a former Chapter 5 that was divided into three Parts. The proposal consolidates the various retained statutes from the former Title 47 provisions, repeals those provisions inconsistent with the revision in that Title, in Title 13, and in Title 33, and retains and renumbers consistent provisions into a single comprehensive Chapter.

DETAILED DIGEST

Present law (R.S. 47:2101-2262, R.S. 33:2861-2892.9 and 4720.11-4720.49, and R.S. 13:4951) provides for the payment and collection of property taxes, tax sales, adjudicated property, redemptions, quiet title proceedings and actions to annul.

Proposed law (R.S. 47:2121) provides the purpose and principles of the proposed revision of the law on property tax payment and collection procedure, tax sales, and adjudicated property, which is to amend, restate, and reorganize the law so as to encourage the payment and efficient collection of property taxes, satisfy the requirements of due process, provide a fair process for the redemption of tax sale and adjudicated property, and otherwise encourage the return to commerce of such properties, and to retain existing procedures not inconsistent with the proposed revision.

Present law (Title 47, Subtitle III, Ch. 4, Part II and Ch. 5, Parts I-III) does not provide a definitions section for the law on property tax collection, tax sales, and adjudication.

Proposed law (R.S. 47:2122) provides a comprehensive definitions section for the proposed new Chapter 5 of Subtitle III, a revision of the law of tax sales/adjudicated property.

Proposed law (R.S. 47:2123) is new, and provides for the effect of affidavits filed as provided by other provisions in the revision, and provides that such affidavits are admissible and evidence a conversion of tax sale title to a full ownership interest.

Proposed law (R.S. 47:2124) is new, and limits the liability of tax collectors and assessors for their actions under new Chapter 5 of Subtitle III.

Proposed law (R.S. 47:2126) is new, and provides the duty of assessors to, among other duties, ensure the tax rolls are complete, that co-owners are listed as tax debtors, and that tax sale purchasers are listed as owners; additionally, the assessor is not required to split assessments for one parcel, but is allowed to make separate assessments for undivided interests.

Present law (R.S. 47:2101) provides the time for payment of ad valorem taxes and procedures for notifying the tax debtor.

Proposed law (R.S. 47:2127) reproduces the substance of R.S. 47:2101, but requires the sending of the notice of taxes due to tax notice parties by U.S. mail, allows the tax collector to send a notice to any other tax sale party, and provides a form for the written notice.

Present law (R.S. 47:2101.1) provides for the inclusion of liens in the tax bill, and provides that failure to pay the liens subjects the property to the same provisions of law that govern tax sales of immovable property.

Proposed law (R.S. 47:2128) retains present law, but expands it to require that all "statutory impositions" are included as required payments.

Present law (R.S. 47:2103) provides for the payment and receipt of taxes by the tax collector, provides procedure for accepting warrants for taxes, and provides special procedures for New Orleans and the parish of Orleans.

Proposed law (R.S. 47:2129) deletes payment and receipt procedure for warrants, deletes the special provisions for New Orleans and the parish of Orleans, and otherwise retains the substance of present law, but allows the collectors to accept payment other than cash, and specifies that the tax collector may refuse to accept anything less than full payment of all statutory impositions.

Present law (R.S. 47:2106) provides for payment in installments of delinquent ad valorem taxes and deferment of taxes in emergencies.

Proposed law (R.S. 47:2130) reproduces current law.

Present law (R.S. 47:2111) provides a three-year prescriptive period for all tax privileges and mortgages granted by law to secure the payment of ad valorem taxes, and provides special cancellation procedures for the parish of Orleans.

Proposed law (R.S. 47:2131) retains the substance of present law by providing that no tax sale shall occur after three years have elapsed from the end of the year the ad valorem taxes were due, and deletes the special provisions for the parish of Orleans.

Present law (R.S. 47:2108 and 2108.1) provides for refund of taxes erroneously paid to the state and to a political subdivision.

Proposed law (R.S. 47:2132) retains and consolidates current law; adjusts tax appeal procedure to follow the 1974 constitution, which provides that the state no longer collects ad valorem taxes for each political subdivision, leaving the collection to each political subdivision; and specifies that the La. Tax Commission is the proper authority to hear tax appeals.

Proposed law (R.S. 47:2133) is new, and allows the tax collector to cancel a tax sale without resort to a lawsuit when the statutory impositions (taxes and any additional items in the tax bill) have been paid, or when the tax sale was conducted in violation of the automatic stay in a federal bankruptcy proceeding.

Present law (R.S. 47:2110) provides for suits to recover taxes paid under protest.

Proposed law (R.S. 47:2134) reproduces present law without substantive change.

Present law (R.S. 47:2112) provides for the acceptance of pro rata taxes on property acquired by the state from private owners.

Proposed law (R.S. 47:2135) reproduces present law without substantive change.

Present law (R.S. 47:2113) provides the duty of assessors and the tax commission to amend the tax rolls to conform to the proration of taxes.

Proposed law (R.S. 47:2136) reproduces present law without substantive change.

Present law (R.S. 47:2114) provides for the computation of proration and the placing of property on exempt tax rolls.

Proposed law (R.S. 47:2137) reproduces present law without substantive change.

Present law (R.S. 47:2171) provides for ad valorem taxation on movable property and a written notice of delinquency.

Proposed law (R.S. 47:2141) reproduces present law without substantive change.

Present law (R.S. 47:2172) provides for ad valorem taxation on movable property, and seizure and sale thereof for failure to pay taxes.

Proposed law (R.S. 47:2142) reproduces present law without substantive change.

Present law (R.S. 47:2173) provides for ad valorem taxation on movable property and the procedure for collection and enforcement when the property has been moved from the parish or municipality.

Proposed law (R.S. 47:2143) reproduces present law without substantive change.

Present law (R.S. 47:2174) provides for ad valorem taxation on movable property and the summary seizure to secure payment.

Proposed law (R.S. 47:2144) reproduces present law without substantive change.

Present law (R.S. 47:2175) provides for ad valorem taxation on movable property, and allows the collector, when he is unable to seize the property for the taxes assessed against it, to seize and sell any other property of the tax debtor to collect the taxes owed.

Proposed law (R.S. 47:2145) reproduces present law without substantive change.

Present law (R.S. 47:2176) provides for ad valorem taxation on movable property, the tax debtor's right to point out the particular movable property to be sold at public sale, and the right to post bond and repossess the property pending the sale.

Proposed law (R.S. 47:2146) reproduces present law without substantive change.

Present law (R.S. 47:2177) provides for ad valorem taxation on movable property and the payment of taxes immediately by the party taking possession thereof.

Proposed law (R.S. 47:2147) reproduces present law without substantive change.

Present law (R.S. 47:2178) provides that no sale or other encumbrance of property after the filing of the tax roll shall affect the taxes assessed, and the property shall still be seized, advertised, and sold for delinquent taxes as the property of the tax debtor to whom assessed.

Proposed law (R.S. 47:2151) reproduces present law, changing the deadline from the "filing" of the tax roll to the "delivery" of the roll to the tax collector so as to conform to the new procedure that eliminates the requirement of the filing of the tax rolls in the mortgage records.

Present law (R.S. 47:2179) provides that the tax collector is authorized to receive the proportion of taxes due on a separate lot or parcel when two or more lots or parcels of ground have been assessed together as a whole to the same tax debtor.

Proposed law (R.S. 47:2152) reproduces present law, and clarifies that the assessor may, but is not required to, accept the proportion of taxes due upon such separate parcels.

Present law (R.S. 47:2180, 2180.1, and 2181) provides the notice of delinquency, advertisement for sale, and place and time of public sale of immovable property.

Proposed law (R.S. 47:2153) retains the substance of present law, consolidating the notices of delinquency and the notices of tax sale into a single notice, and providing statutory "safe harbor" forms for the delinquency notice, published notice, and notice sent after the tax sale to any new owners who may have purchased the property after the preparation of the tax rolls for the year that the property was sold for taxes, which specify the time and place of sale, specify that "tax sale title" to the property is transferred at the tax sale, and, where applicable, specify that the least quantity of the property sold will be by undivided interests.

Present law (R.S. 47:2182) provides for tax sales to be held on or before May 1 or as soon thereafter as possible, and provides that tax collectors failing to seize, advertise, or sell delinquent property are guilty of nonfeasance in office.

Proposed law (R.S. 47:2154) reproduces the substance of present law, but deletes the liability for nonfeasance in office, specifies that "tax sale title" is sold (or tax sale title to an undivided interest), and provides that the price to be paid is the amount of statutory impositions.

Present law (R.S. 47:2183(A)) provides for the issuance of a tax deed to purchasers of property sold for taxes.

Proposed law (R.S. 47:2155) modifies present law by substituting a "tax sale certificate" for the "tax deed", which certificate, however, constitutes a tax deed for purposes of the La. constitution, and provides a "safe harbor" form tax sale certificate, which eliminates the proces verbal of present law.

Present law (R.S. 47:2183(C)) provides for post-sale notice of the tax sale to be sent by the purchaser to the "prior owner" and other persons with an interest in the property.

Proposed law (R.S. 47:2156) modifies present law by allowing, but not requiring, the tax sale purchaser to give notice of the right to redeem to tax sale parties, requires the tax collector to send notice of the right to redeem, allows a political subdivision to give notice of the right to redeem even if the property has become adjudicated property, and provides statutory "safe harbor" notice forms.

Proposed law (R.S. 47:2157) is new, and is designed to evidence as a matter of public record the conversion of tax sale title to ownership, by providing that a tax sale purchaser, upon the expiration of the redemptive period, may send a notice to parties whose interest the purchaser intends to terminate, which notice shall constitute a notice of sale, and which notice may be filed in the mortgage records, and the purchaser may publish a notice, and may file an affidavit attesting to the notices sent and actions taken, which affidavit shall serve as a cancellation of all statutory impositions due on the property. Statutory forms are provided for both the notices and the affidavit.

Present law (R.S. 47:2185) allows the tax sale purchaser to obtain actual possession of the property with the consent of the tax debtor, or obtain a writ of possession commanding the sheriff to seize the purchased property and place the purchaser in actual possession.

Proposed law (R.S. 47:2158) modifies present law by allowing a writ of possession to be issued only when the possession by the tax purchaser is necessary to comply with the order of a political subdivision, and provides a privilege in favor of the purchaser for the cost of complying with an order of the political subdivision.

Present law (R.S. 47:2180.1(A)) provides for notice of delinquent taxes to mortgagees requesting notice.

Proposed law (R.S. 47:2159) modifies present law by allowing any person to request notice of tax delinquency, such person to receive all notices that are sent to a tax debtor, upon payment of a fee to defray the costs, such request to be renewed annually.

Present law (R.S. 47:2192) provides that no sale of property for taxes due for the prior year shall invalidate the claim for taxes due on the property for any previous year or years.

Proposed law (R.S. 47:2160) modifies present law by providing that tax sale title shall not affect the claim of a political subdivision for the taxes due on the property that were not included in the bid price.

Present law (R.S. 47:2193) provides that all taxes due after the recording of the tax deed are assessed to and paid by the purchaser, until the property is redeemed.

Proposed law (R.S. 47:2161) conforms present law to the new tax scheme by providing that all taxes due after the "filing of the tax sale certificate" are assessed to and paid by the tax sale purchaser, and provides that, if redeemed, the person redeeming shall pay all statutory impositions assessed after the tax sale, and further provides that failure to assess the property in the name of the purchaser does not affect the validity of the sale.

Present law (R.S. 47:2194) prohibits the purchase by assessors, tax collectors, and other officers of property at tax sale, and nullifies any such sale.

Proposed law (R.S. 47:2162) retains the prohibition, but does not nullify the sale if the violator subsequently sells the property to a good faith purchaser, and specifies that in addition to any penalties provided by law, the violator must disgorge any profits to the tax debtor.

Proposed law (R.S. 47:2163) is new, and provides that an owner or co-owner may pay the statutory impositions due at the time of the tax sale, and the purchase of tax sale title by the owner or co-owner shall be deemed a redemption.

Present law (R.S. 47:2186) provides, in part, for adjudication to the state of immovable property if the minimum bid, which must be set for an amount at least equal to the taxes, costs, and interest, is not met.

Proposed law (R.S. 47:2196) modifies present law to provide for adjudication to the political subdivision if the bid, which must be set for an amount at least equal to the statutory impositions, interest, and costs, is not met; provides for the form and filing of a tax sale certificate in the conveyance records in the name of the acquiring political subdivision; and, allows the political subdivision, with the agreement of the tax collector, to place the adjudicated property back up for tax sale the following year or years.

Proposed law (R.S. 47:2197) is new, and provides that all property adjudicated to the state for the years prior to 1974 is transferred to the parish of the tax collector for whose taxes the property was so adjudicated, thus conforming to the 1974 constitution that abolished the procedure of adjudicating property to the state.

Proposed law (R.S. 47:2198) is new, and provides that adjudicated property adjudicated to the political subdivision at tax sale remains assessed in the name of the tax debtor, that the political subdivision has no liability with respect to the property as a result of the adjudication, and that no encumbrance against the political subdivision affects the adjudicated property.

Proposed law (R.S. 47:2201) is new, and allows any political subdivision to adopt a general ordinance governing the public sale and donation of adjudicated property, provided it meets the requirements of R.S. 47:2202 (minimum bid prices), 2203 (pre-bidding procedures), and 2206 (notice).

Proposed law (R.S. 47:2202) is new, and sets the minimum bid price for sales of adjudicated property.

Proposed law (R.S. 47:2203) is new, though based in part on present law that allows an individual to initiate a public sale of particular adjudicated property. It allows and provides the procedure for the political subdivision to initiate the sale of adjudicated property by ordinance.

Proposed law (R.S. 47:2204) is new, and allows the political subdivision to impose terms and conditions in the ordinance or subsequent ordinance allowing for the public sale of adjudicated property.

Proposed law (R.S. 47:2205) is new, and allows the donation of adjudicated property by the political subdivision subject to constitutional limits.

Proposed law (R.S. 47:2206), based in part on present law, provides the notice required to be sent, either by the political subdivision or the acquiring person, after sales or donations of adjudicated property, and is substantially similar to the notice of tax sale provisions in R.S. 47:2157(A), (B), and (C), excepting that it provides different deadlines for duly notified persons to either redeem the property or bring an action for nullity, and allows the notice to be sent prior to the expiration of the applicable redemptive period.

Proposed law (R.S. 47:2207) is new, allows a person acquiring adjudicated property to require the political subdivision to authenticate an act of sale or donation, and provides the non-warranty "safe harbor" forms for the sale or donation.

Proposed law (R.S. 47:2208) is new, and allows the person acquiring adjudicated property from the political subdivision to file an affidavit as to how persons with an interest in the property were identified and notified, such affidavit constituting a termination of all statutory impositions if the property was acquired by sale, and terminating only the statutory impositions of the political subdivision, if acquired by donation.

Proposed law (R.S. 47:2209), based on present law, provides that a tax debtor or owner cannot use the sale or donation of adjudicated property process to clear the property of encumbrances.

Present law (R.S. 33:4720.33) provides that the political subdivision shall not be deemed the owner of the property, and is not liable during the period between the adjudication and post-adjudication donation, such liability remaining with the owner of record.

Proposed law (R.S. 47:2210) reproduces the substance of present law, providing that the "current owner" remains liable as owner of the property while the property remains adjudicated and that the political subdivision is not liable solely as owner of the property.

Proposed law (R.S. 47:2211) is new, and provides the default rule for pro rata distribution of the proceeds of the sale of adjudicated property when there are overlapping statutory impositions or governmental liens, absent agreement amongst the holders.

Present law (R.S. 33:2862) provides for the municipality or parish to institute a suit to obtain possession of adjudicated property immediately after the recordation of the proces verbal of the adjudication.

Proposed law (R.S. 47:2231) allows the political subdivision to institute a suit to obtain possession at any time after the tax sale certificate for adjudicated property is filed.

Present law (R.S. 33:2863) provides for placing the political subdivision in possession of the adjudicated property.

Proposed law (R.S. 47:2232) reproduces the substance of present law, and provides that, upon presentation of a certified copy of the tax sale certificate, the judge shall issue an order of possession commanding the sheriff to place the political subdivision into actual possession.

Present law (R.S. 33:2864) provides for leasing of the adjudicated property by the political subdivision once it has obtained possession.

Proposed law (R.S. 47:2233) reproduces present law.

Present law (R.S. 33:2876) provides for redemption of adjudicated property.

Proposed law (R.S. 47:2234) reproduces present law, authorizing the political subdivision to allow the owner to redeem the property by paying past-due and current installments, together with interest, costs, and penalties; and, provides the political subdivision retains the lien for remaining and future installments until fully paid.

Present law (R.S. 33:2878) authorizes a parish or municipality to establish servitudes over adjudicated property.

Proposed law (R.S. 47:2235) retains present law authorizing a political subdivision to establish servitudes, adjusting for the new adjudicated property procedure and terminology.

Present law (R.S. 33:2877) allows the political subdivision to claim ownership of adjudicated property three years after the adjudication if the property is needed for a valid public purpose such as would give rise to an expropriation.

Proposed law (R.S. 47:2236) is based on present law, modified so that it allows the political subdivision to obtain full ownership interest at any time after the adjudication, eliminates the "public purpose" prerequisite, and utilizes the notice and affidavit procedures previously established in this revision for use by tax sale purchasers, or purchasers/donees of adjudicated property, to obtain full ownership.

Present law (R.S. 33:2864.1 and 2866.1) authorizes a political subdivision to sell or donate adjudicated property once it has obtained full ownership.

Proposed law (R.S. 47:2237) reproduces the substance of present law.

Proposed law (R.S. 47:2241) is new, though it affirms jurisprudence, and provides that all redemptive periods provided in the constitution shall be preemptive.

Proposed law (R.S. 47:2242) is new, and provides that any person may redeem tax sale title to property, but the redemption must be in the name of the tax debtor.

Present law (R.S. 47:2222) provides for redemption payments to the tax collector or tax purchaser, amounts, redemption of two or more lots or parcels, and certificates issued by the collector.

Proposed law (R.S. 47:2243) is new, though based in part on R.S. 47:2222, and provides for redemption payments to be made only through the tax collector; further requires the payment of not only the amount due plus interest and penalties for the year of the tax sale, but also subsequent statutory impositions, plus 5% penalty, and 1% interest per month to the extent not paid by the tax debtor; and eliminates the provision allowing redemption of less than the entirety of a tax parcel.

Proposed law (R.S. 47:2244) is new, and details the additional costs the political subdivision may impose as part of the redemption price.

Present law (R.S. 47:2222(C)) provides for the issuance of a redemption certificate.

Proposed law (R.S. 47:2245) provides that the redemption certificate can only be issued by the tax collector, and provides a "safe harbor" redemption certificate form.

Proposed law (R.S. 47:2246) is new, and provides that adjudicated property may be redeemed as a matter of right so long as it remains on the adjudicated rolls and full ownership has not been obtained by the political subdivision or acquiring person.

Proposed law (R.S. 47:2247) is new, and requires the person redeeming adjudicated property to pay all actual costs incurred by the political subdivision or acquiring person.

Present law (R.S. 47:2228 and 2228.1) provides the procedure for quieting tax title.

Proposed law (R.S. 47:2266) combines present law provisions, and reproduces the substance of present law on quieting tax title, adjusted to conform to the proposed revision, and additionally allowing for the filing of a notice of lis pendens.

Present law (R.S. 13:4941 et seq.) provides for purchasers of property at sheriffs' sales, those made by authority of the court, those made by the syndics of insolvent estates, and those of any description made by the authority of justice, to protect themselves from eviction by instituting monition proceedings as provided in R.S. 13:4942-4951, and specifically makes the proceedings available to tax sales in R.S. 13:4951.

Proposed law (R.S. 47:2271-4280, and repeal of R.S. 13:4951) based on the monition proceeding of Title 13, provides that monition is available specifically to persons acquiring tax sale title or ownership of property under the revision, and modifies the monition proceedings as applicable to tax sales and adjudicated property as follows: the monition proceeding is made available to political subdivisions, is allowed after the expiration of the redemptive period, allows the petitioner to file a notice of lis pendens, requires notice to persons who may have an interest in the property, extends the published notice delay periods, and adds affidavit procedure requirements similar to those of the tax sale notice affidavit in proposed law (R.S. 47:2157). Additionally, monition provisions specific to the revision are provided for the petition, the filing of the judgment and affidavit, and costs, which are to be paid by the petitioner when no opposition is made to the confirmation of the sale.

Proposed law (R.S. 47:2286-2292) provides new law on actions to annul specific to the revision, specifying that no tax sale shall be set aside except for a payment nullity, redemption nullity, or a nullity under proposed law (R.S. 47:2162, forbidding tax collectors or assessors from purchasing at tax sale), all of which are relative nullities; provides the time

in which a nullity action must be brought; specifies that the tax sale certificate and the act by which an acquiring person obtains full ownership constitute just title for purposes of acquisitive prescription; provides for the trial, judgment, and effect of judgment in a nullity action; and, provides the acquiring person's rights to certain fruits severed or acquired prior to a judgment of nullity.

(Adds a new Chapter 5 of Subtitle III of Title 47, comprised of new Parts I-VII; to be comprised of R.S. 47:2121-2292; Repeals R.S. 13:4951, R.S. 33:2861-2892.9 and 4720.11-4720.49, and R.S. 47:2101-2114, and former Parts I, II, and III of Chapter 5 of Subtitle III of Title 47, formerly comprised of R.S. 47:2171-2262)