ENROLLED

Regular Session, 2008

ACT No. 819

HOUSE BILL NO. 337

BY REPRESENTATIVES BURRELL, AUBERT, AUSTIN BADON, BOBBY BADON, BARRAS, BARROW, BURFORD, HENRY BURNS, CARMODY, CARTER, DIXON, DOWNS, FRANKLIN, GALLOT, HARDY, HENRY, HOFFMANN, HONEY, HOWARD, MICHAEL JACKSON, KATZ, LAFONTA, LEGER, LIGI, MARCHAND, MORRIS, NORTON, NOWLIN, PETERSON, RICHARD, RITCHIE, JANE SMITH, PATRICIA SMITH, TALBOT, WADDELL, AND WILLIAMS

(On Recommendation of the Louisiana State Law Institute)

AN ACT

To enact a new Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950, formerly comprised of Parts I through III, to be comprised of new Parts I through VII; to enact Part I, to be comprised of R.S. 47:2121 through 2124, Part II, to be comprised of R.S. 47:2126 through 2137, Subpart A of Part III, to be comprised of R.S. 47:2141 through 2147, Subpart B of Part III, to be comprised of R.S. 47:2151 through 2163, Subpart A of Part IV, to be comprised of R.S. 47:2196 through 2197, Subpart B of Part IV, to be comprised of R.S. 47:2201 through 2211, Subpart C of Part IV, to be comprised of R.S. 47:2231 through 2237, Subpart A of Part V, to be comprised of R.S. 47:2241 through 2245, Subpart B of Part V, to be comprised of R.S. 47:2246 and 2247, Subpart A of Part VI, to be comprised of R.S. 47:2266, Subpart B of Part VI, to be comprised of R.S. 47:2271 through 2280, and Part VII, to be comprised of R.S. 47:2286 through 2292, and to repeal R.S. 13:4951, Subparts E, F, and G of Part II of Chapter 6 of Title 33, comprised of R.S. 33:2861 through 2892.9, Chapters 13A, 13B, and 13C of Title 33, comprised of R.S. 33:4720.11 through 4720.49, and Part II of Chapter 4 of Subtitle III of Title 47, comprised of R.S. 47:2101 through 2114; and to repeal former Parts I, II, and III of Chapter 5 of Subtitle III of Title 47, comprised of R.S. 47:2171 through 2194, 2221 through 2230, and 2251 through 2262, all relative to the payment and collection of property taxes, tax sales, and adjudicated property; to provide general provisions and definitions; to provide for payment and collection; to provide for tax sales of movable and immovable property; to provide for adjudicated property; to provide for

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redemptions; to provide procedures to quiet tax title and for actions to annul; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950, formerly comprised of Parts I through III, comprised of new Parts I through VII; to enact Part I, comprised of R.S. 47:2121 through 2124, Part II, comprised of R.S. 47:2126 through 2137, Subpart A of Part III, comprised of R.S. 47:2141 through 2147, Subpart B of Part III, comprised of R.S. 47:2151 through 2163, Subpart A of Part IV, comprised of R.S. 47:2196 and 2197, Subpart B of Part IV, comprised of R.S. 47:2201 through 2211, Subpart C of Part IV, comprised of R.S. 47:2231 through 2237, Subpart A of Part V, comprised of R.S. 47:2241 through 2245, Subpart B of Part V, comprised of R.S. 47:2246 and 2247, Subpart A of Part VI, comprised of R.S. 47:2266, Subpart B of Part VI, comprised of R.S. 47:2271 through 2280, and Part VII, comprised of R.S. 47:2286 through 2292, are hereby enacted to read as follows:

SUBTITLE III

CHAPTER 5. PAYMENT AND COLLECTION PROCEDURE; TAX SALES; ADJUDICATED PROPERTY

PART 1. GENERAL PROVISIONS; PURPOSE; DEFINITIONS

§2121. Purpose; principles; property rights

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

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

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

(3) Satisfy the requirements of due process.

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

(5) Encourage the return to commerce of tax sale and adjudicated properties, without unnecessary public expense, through clear procedures that allow interested

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persons to carry out the title search and notification procedures considered necessary under contemporary standards of due process to acquire merchantable title to those properties.

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

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

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

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

(2) A person who acquires ownership of property through a tax sale title takes the ownership subject to any interests that are not terminated in accordance with this Chapter. Other than taking subject to those interests, the acquiring person's ownership of the tax sale property after termination of the redemptive period is not affected by any lack of notice to the holders of those interests.

(3) Notwithstanding any provision in this Chapter to the contrary, the following interests affecting immovable property shall not be terminated pursuant

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to this Chapter to the extent the interests remain effective against third parties and are filed with the appropriate recorder prior to the filing of the tax sale certificate:

(a) Mineral rights.

(b) Pipeline servitudes.

(c) Predial servitudes.

(d) Building restrictions.

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

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

(1) The tax sale.

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

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

§2122. Definitions

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

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

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

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

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

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

(a) To sign.

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

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

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

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

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

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

(6) "Ordinance" means:

(a) An act of a political subdivision that has the force and effect of law, including but not limited to an ordinance, a resolution, or a motion; or

(b) A rule or regulation promulgated by the State Land Office, the division of administration, or by another state agency with authority over adjudicated properties.

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

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

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

(a) The state.

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) "Tax sale party" means the tax notice party, the owner of property, including the owner of record at the time of a tax sale, as shown in the conveyance

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records of the appropriate parish, and any other person holding an interest, such as a mortgage, privilege, or other encumbrance on the property, including a tax sale purchaser, as shown in the mortgage and conveyance records of the appropriate parish.

(20) "Tax sale property" means property for which tax sale title is sold pursuant to R.S. 47:2154.

(21) "Tax sale purchaser" means the purchaser of tax sale property, his successors, and assigns.

(22) "Tax sale title" means the set of rights acquired by a tax sale purchaser or, in the case of adjudicated property, on the applicable political subdivision, pursuant to this Chapter.

(23) "Written notice", "notice", "written", or "writing" means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

§2123. Affidavits

A certified copy of any affidavit filed in accordance with R.S. 47:2157, 2208, 2236, and 2277 with the appropriate recorder of mortgages pursuant to the provisions of this Chapter shall be self-authenticating. A certified copy of the affidavit shall constitute prima facie evidence of the facts stated in the affidavit concerning the subject matters specified in the statutory form of affidavits provided by R.S. 47:2157, 2208, 2236, and 2277.

Comments – 2008

(a) This Section is new. Other provisions of this Chapter allow tax sale purchasers, acquiring persons, political subdivisions or their representatives to file affidavits. See R.S. 47:2157, 2208, 2280, and 2291. This Section provides the effect of these affidavits. A certified copy of the affidavit is self-authenticating for evidentiary purposes and is prima facie evidence of the facts recited in the affidavit to the extent such facts are set forth if the statutory form for affidavits is used.

(b) It is the giving of notice and the passage of time that converts tax sale title to a full ownership interest, not the filing of an affidavit under this Chapter. The affidavit merely evidences these facts so that there is evidence, via a certified copy, that is admissible in court, without further authentication or testimony, in the chain of title that there has been a conversion of tax sale title to a full ownership interest on which a title examiner can rely to determine merchantability.

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§2124. Liability of tax collectors and tax assessors

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

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

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

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

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

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

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

Comments – 2008

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

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

PART II. PAYMENT AND COLLECTION

§2126. Duty of assessors; single assessment

Each assessor shall deliver to the appropriate tax collector the tax roll for the year in which taxes are collectible by November fifteenth of each calendar year,

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except as otherwise provided by law. At the same time, the assessor may file the tax roll in the mortgage records of the parish in which property subject to the taxes is located. The assessor shall use reasonable efforts to list on the tax roll all co-owners of record of the property, or if there has been a tax sale to a party other than a political subdivision, the tax sale purchaser and the other owners, to the extent their interests were not sold at tax sale. The tax roll shall be updated as of January first or later of the year in which the taxes are collectible. There shall be only one assessment for each tax parcel, and the full assessment shall be on each tax bill sent pursuant to R.S. 47:2127(C), provided, however, if requested by a tax debtor, the assessor may, but shall not be obligated to, make separate assessments for undivided interests in each tax parcel.

Comments – 2008

(a) This Section is new. It changes the law in part. The tax assessors are required to deliver the tax rolls to the tax collectors by November 15. The tax collectors, however, are no longer required to file the tax rolls in the mortgage records, although they are allowed to do so. Further, the assessors are required to use reasonable efforts to insure the tax rolls are complete in several respects. All co-owners are to be listed as tax debtors. Further, the tax roll is to list a tax sale purchaser as an owner, or in the case when the tax sale purchaser purchased an undivided interest, as a co-owner, along with other owners.

(b) This Section does not require the assessor to split assessments for one tax parcel. In this case, this Section overrules *Farmco, Inc. v. Wilson,* 944 So. 2d 665 (La. App. 1 Cir. 2006). The assessor, however, is allowed to make separate assessments for undivided interests, but is not obligated to do so.

§2127. Time for payment; interest; notification

A. Time for Payment. Taxes assessed shall be due in that calendar year as soon as the tax roll is delivered to the tax collector, and they shall be paid on or before December thirty-first in each respective year.

B. Interest. The interest on all ad valorem taxes, whether levied on movable or immovable property, which are delinquent shall begin thirty days after the deadline for payment of taxes, and shall bear interest from that date until paid, at the rate of one percent per month or any part thereof. In the event of an erroneous assessment and adjustment by the tax commission, the tax debtor shall have fifteen days after the date of receipt of notice of the revised assessment in which to pay the adjusted amount without interest penalty. If the address provided by the tax assessor

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on the tax roll proves to be incorrect and the tax debtor does not receive a timely notice, the tax collector may extend to the tax debtor a fifteen-day notice in which to pay without interest penalty.

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

[Name of Political Subdivision]

[YEAR] Property Tax Notice

[List All Tax Notice Parties and their addresses]

Description of Charges	Amount
Estimated Tax Due [Name of Tax District] Total Taxes	

Property Address
Legal Description

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PLEASE REMIT BY [DATE]

*** ACCESS YOUR PROPERTY TAXES AND PAY ONLINE @ _____ ***

Please fold and tear along perforated line.

[YEAR] PROPERTY TAX NOTICE

[Name & Address of Tax Collector] Amount Due:

[Name & Address of Tax Debtor] Due Date:

Make check payable to: _____

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

[Name & Address of Tax Collector]

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

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

These taxes paid by: _____

Comments – 2008

(a) This Section reproduces the substance of former R.S. 47:2101. It is not intended to change the law.

(b) Subsection C requires the sending of the notice of taxes due to tax notice parties by U.S. mail. It further allows the tax collector to send a notice to any other tax sale party. In keeping with the purposes of this revision, Subsection C further provides a safe harbor form for the tax collector.

(c) Subsection (B)(2) of former R.S. 47:2101 has been moved to R.S. 47:2159.

§2128. Statutory impositions

All statutory impositions including ad valorem taxes shall be paid along with the taxes. Failure to pay the statutory impositions in addition to the ad valorem taxes

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shall cause the immovable property to be subject to the same provisions of law that govern tax sales of immovable property.

Comments – 2008

(a) This Section reproduces the substance of former R.S. 47:2101.1. It changes the law in part by expanding the scope of the payments required to all statutory impositions.

(b) Failure to pay any statutory imposition in addition to the ad valorem taxes will also subject the property to a tax sale.

§2129. Payment; receipt

All statutory impositions shown on the notice sent to the tax debtor shall be paid in cash, or at the discretion of the tax collector, by other forms of payment. The tax collector may charge a processing fee to recover the additional cost of accepting other forms of payment. The tax collector shall keep a written record of each payment identifying the amount paid and the assessment number and shall provide a written notice of payment to each tax debtor if the tax debtor so requests. The tax collector may refuse to accept payment of less than all the outstanding statutory impositions, and the processing fee, other than as provided in R.S. 47:2130.

Comments – 2008

(a) This Section is based, in part, on former R.S. 47:2103.

(b) This Section allows tax collectors, in their discretion, to accept payment in forms other than cash, such as checks, money orders and credit cards. The tax collector is allowed to recover the additional costs for accepting alternative payments by charging a processing fee.

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

§2130. Deferment of tax payments

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

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have been collected on any tax, the tax sale shall be for the amount of the unpaid balance of the tax.

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

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

(1) The owner wishing to avail himself of the provisions of this Section shall make a sworn statement in triplicate, no later than December thirty-first of the year in which the damage or destruction occurred, or thirty days after the tax bill has been mailed, whichever is later, that his property has been or is overflowed, or is or has been otherwise damaged or destroyed, giving the description of his property as assessed, and that by reason thereof, the forcible collection of the taxes of the year during which the injury occurred, or the preceding year, would be oppressive, and that he is unable to pay the same without a sacrifice of his property. Each copy of the statement shall be signed and sworn to by the tax debtor claiming the benefit of this Section; one copy of the statement shall be filed with the officer charged with the collection of the taxes, one filed in the office of the state auditor, and one shall

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be filed in the office of the recorder of mortgages of the parish in which the property is located. Thereupon, the owner shall be relieved from the payment of taxes for the year in which he claims a postponement. The filing shall operate as a first lien and privilege, and the statement shall be preserved in book form and duly indexed.

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

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

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

(5) The tax collector shall make a separate statement and list of all persons claiming the benefits of this Section, together with the respective amount of their taxes, and the property upon which the taxes are due, and shall deliver over one copy of the same to the assessor of the parish, who will assess in each subsequent year upon the respective immovable properties therein described a one-tenth part of the taxes referred to in the respective triplicate sworn statements and thus postponed until all of said taxes have been assessed, and the respective immovable properties shall be liable for the respective parts of the postponed taxes. In case the list shows that a tax debtor owns movables only, the postponed taxes shall be assessed against the debtor in this manner. The statement thus prepared by the tax collector shall be prepared in duplicate, sworn to, and one copy delivered to the state auditor.

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D. The deferred portion of the taxes herein provided for shall be annually levied and assessed and carried upon the assessment roll and collected in the manner and by the processes provided in the case of ordinary tax collections and separately accounted for by the tax collector and remitted to the state treasurer, who shall credit the amount thereof to the parish making the remittance and shall turn such amount into the general fund.

Comment-- 2008

This Section reproduces the substance of the first paragraph of former R.S. 47:2106.

§2131. Time period in which to conduct tax sales

Once three years after December thirty-first of the year in which ad valorem taxes are due have passed, except for adjudicated property, no tax sale shall be conducted with regard to such taxes, provided that the time period shall be suspended by the pendency of any suit which prevents the collection of the taxes, and the time of the suspension shall be excluded from the computation of the three years.

Comments – 2008

(a) This Section reproduces the substance of the first paragraph of former R.S. 47:2111. It is not intended to change the law.

(b) The Section eliminates the former rule that the filing of the tax rolls in the mortgage records, which is no longer required under this revision, created a mortgage or privilege on the property, and such mortgage or privilege perempted in three years. Instead, this Section and the revision as a whole treats a tax sale as a *sui generis* concept, and provides that the tax sale must take place within three years of the time the statutory impositions that form the basis of the tax sale are due.

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

§2132. Refund of taxes erroneously paid

A. Any person who has a claim against a political subdivision for ad valorem taxes erroneously paid into the funds of that political subdivision may present the claim to the Louisiana Tax Commission within three years of the date of the payment, in such form and together with such proof as the tax commission may require by its rules and regulations. The tax commission shall consult with the assessor of the parish in which the property which is the subject of the claim is

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located, and after that assessor advises the tax commission that a refund is due the claimant, the tax commission shall duly examine the merits and correctness of each claim presented to it and shall make a determination thereon within thirty days after receipt of the claim.

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

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

(1) If the claim is made for taxes erroneously paid on property which is or could be homestead exempt or otherwise exempt, the collector shall immediately notify the affected tax recipient bodies to remit to him within thirty days their pro rata share of the refund or repayment. Upon receipt of those funds from the tax-recipient bodies, the collector shall have an additional thirty days to remit the payment in full to the tax debtor. Failure by any tax recipient body or the collector to timely remit such monies shall cause interest at the legal rate to accrue in favor of the tax debtor to be paid by the political subdivision or tax collector failing to so timely remit.

(2) If the claim is made for taxes erroneously paid on property which would not qualify for a homestead or other exemption, the collector shall note and record the amount of the refund or repayment owed and shall have full responsibility to

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ensure that such amount shall operate as a credit against future ad valorem tax liability of that property. No ad valorem taxes shall be due or collected on such property until such time as the collector certifies that a sufficient amount of taxes assessed have been waived to satisfy the refund or repayment ordered by the tax commission. No interest shall accrue or be due on any such refund or repayment.

(3) If the claim is made in a political subdivision which has established an alternative procedure for providing for refunds of ad valorem taxes erroneously paid as authorized by this Section, and if that alternative procedure has been submitted to and approved by the tax commission, such procedure may be utilized in lieu of the provisions of Paragraphs (1) and (2) of this Subsection.

D. An action of the assessor or of the tax commission rejecting or refusing to approve any claim made under the provisions of this Section may be appealed by means of ordinary proceedings to the district court having jurisdiction where the property which is the subject of the claim is located.

Comments – 2008

(a) This Section consolidates former R.S. 47:2108 and 2108.1. It is not intended to change the law.

(b) Since after the Louisiana Constitution of 1974 the state no longer collects ad valorem taxes for each political subdivision and each political subdivision collects its own taxes, the board of tax appeals has been eliminated and the Louisiana Tax Commission has been made the proper authority to deal with tax appeals.

§2133. Prior payment of taxes

If within the redemptive period, the tax collector determines that the statutory impositions on a certain property subject to a tax sale were paid prior to the tax sale or that the tax sale was conducted in violation of a stay under federal bankruptcy law, the tax collector shall cancel the affected tax sale and shall reimburse the tax sale purchaser the bid price. The tax collector may credit the reimbursement pro rata against future disbursements to the tax recipients. The tax collector shall record the cancellation with the recorder of conveyances in the parish in which the property is located. Such cancellation reinstates the interests of the tax debtor and his successors and all interests in the property that have been otherwise terminated

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pursuant to this Chapter, to the extent the interest has not otherwise terminated pursuant to its terms or by operation of law.

Comments – 2008

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

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

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

§2134. Suits to recover taxes paid under protest

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

(2) A person resisting the payment of an amount of tax due or the enforcement of a provision of the tax law shall timely pay the amount due to the officer designated by law for the collection of the tax and shall give him, the assessor, and the Louisiana Tax Commission notice at the time of payment of his intention to file suit for the recovery of the tax. Upon receipt of notice, the amount paid shall be segregated and held by the officer for a period of thirty days. If a suit is timely filed contesting the correctness of the assessment pursuant to R.S. 47:1856, 1857, or 1998 and seeking the recovery of the tax, then that portion of the taxes paid that are in dispute shall be deemed as paid under protest, and that amount shall be segregated and shall be further held pending the outcome of the suit. The portion of the taxes that is paid by the tax debtor to the officer and is neither in dispute nor the subject of the suit contesting the correctness shall not be made subject to the protest.

(3) If the tax debtor prevails, the officer shall refund the amount to the tax debtor with interest at the actual rate earned on the money paid under protest in the

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escrow account during the period from the date such funds were received by the officer to the date of the refund. If the tax debtor does not prevail, the tax debtor shall be liable for the additional taxes together with interest at the rate set forth above during the period from the date the notice of intention to file suit for recovery of taxes was given to the officer until the date the taxes are paid.

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

C. The right to sue for recovery of a tax paid under protest as provided in this Section shall afford a legal remedy and right of action at law in the state or federal courts where any tax or the collection thereof is claimed to be an unlawful burden upon interstate commerce, or in violation of any act of the Congress of the United States, the Constitution of the United States, or the constitution of the state. Upon request of a tax debtor and upon proper showing by the tax debtor that the principle of law involved in an additional assessment is already pending before the courts for judicial determination, the tax debtor, upon agreement to abide by the pending decision of the courts, may pay the additional assessment under protest but need not file an additional suit. In such cases, the tax so paid under protest shall be segregated and held by the officer designated by law for the collection of the tax until the question of law involved has been determined by the courts and shall then be disposed of as provided in the decision of the court.

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

E. Any tax debtor in the state who has paid his disputed taxes under protest as provided in this Section and who has filed suit under the provisions of R.S.

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47:1856, 1857, or 1998 shall cause to be served in the suit notice to the officer or officers designated for the collection of taxes in the parish or parishes in which the property is located, the assessor or assessors for the parish or district, or parishes or districts, in which the property is located, and the chairman of the Louisiana Tax Commission. This notice shall be sufficient to cause the officer or officers to further hold the amount segregated pending the outcome of the suit.

Comment – 2008

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

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

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

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

C. Notwithstanding any other provisions of law to the contrary, when property becomes exempt from ad valorem taxation due to an act of donation, the pro rata share of ad valorem taxes for the year in which the act of donation is made shall be due and payable by the donor. The pro rata share of ad valorem taxes shall be calculated and adjusted in accordance with R.S. 47:2135 through 2137. The public entity donee, whether the state of Louisiana or any of its legal subdivisions or entities thereof, shall be responsible for notifying the proper assessor and the Louisiana Tax Commission in order to properly carry out the intent and purposes of this Subsection.

Comment – 2008

This Section reproduces the substance of former R.S. 47:2112. It is not intended to change the law.

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§2136. Duty of assessors and tax commission to amend tax roll to conform to proration of taxes

All assessors throughout the state of Louisiana and the Louisiana Tax Commission are authorized and directed to adjust and amend all tax rolls and records within their respective offices in order to properly carry out the intent and purposes of R.S. 47:2135 through 2137.

Comment – 2008

This Section reproduces the substance of former R.S. 47:2113. It is not intended to change the law.

§2137. Computation of proration; placing of property on exempt roll

The proration of taxes shall be computed to the closest half month or fifteen-day period to the date of the transfer of title to property from private to public ownership, and the assessor shall place the property on the exempt tax roll.

Comment – 2008

This Section reproduces the substance of former R.S. 47:2114. It is not intended to change the law.

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:

(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.

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

C. The tax collector shall publish once in the official journal published in his district or parish, if there be one, or in the manner provided by law for judicial sales, one general notice substantially in the foregoing form, addressed to all owners of assessed movable property situated in his parish or district, whose names, post offices, or agents are unknown, in which he shall set forth substantially that the taxes of the unknown owners are due and unpaid, and if not paid within twenty days, that he will proceed to seize and sell such quantity of the movable property of each said unknown owner as will pay all the taxes, interest, and costs. He shall pay for the publication and shall be entitled to reimbursement of actual costs from each owner

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or from the property assessed to him. He shall certify on both tax rolls that he has published and posted such notices, and such certificate on either shall make full proof thereon, until disproved in a judicial proceeding.

Comment – 2008

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

§2142. Movable property; seizure and sale

A. The tax collector is authorized to collect the taxes due or which may be due by any person, upon a movable property, for any year past or the current year, either by taking into his possession so much of the movable property as may be required, in his opinion, to realize the amount of the tax or taxes, or by placing a keeper upon the movable property subject to the tax until the day of sale, upon which day so much of the property as may be necessary to realize the tax or taxes, interest, and costs, for which it has been seized, shall be sold to the highest bidder, without appraisement and without redemption. However, after the tax collector has seized the movable property, as above set out, he shall ascertain the amount of taxes due for the past year by reference to the assessment roll, and for the current year by fixing the same value or percentage of value as was used by the state and the parish in the year preceding on like property, and by applying to that value the rate of taxation applied to property of the same class in the preceding year.

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

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

Comment – 2008

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

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

When movable property is moved from the parish or municipal corporation in which it is assessed to any other parish or municipal corporation in this state before the taxes on the property are paid, or moved from a municipality to another part of the same parish, and the taxes are not paid by the owner of the property when due, the tax collector of the parish or municipality in which the property is located, at the request of the tax collector of the parish or municipality from which such property was moved, at the time when the taxes were due, or subsequent thereto, shall enforce the collection of all taxes due on the property by seizure and sale in accordance with law. When taxes are collected in accordance herewith, the tax collector making the collection shall forward the full amount of taxes collected, including interest and penalties, to the tax collector of the parish or municipal corporation in which the property was assessed, but may retain all amounts collected for costs incurred in making the collection.

Comment – 2008

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

§2144. Movable property; summary seizure to secure payment

The tax collector shall seize the movable property of any tax debtor without notice when he believes that such seizure is necessary to enable him to collect any tax due by the debtor, and he shall make such seizure whenever he has good reason to believe that the tax debtor will conceal, part with, or dispose of the movable

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property, which fact must be made to appear by the affidavit of the tax collector, or one of his deputies; he shall advertise the property in the manner provided for in judicial sales and shall sell, for cash, cashier's check, certified check, money order, or wire transfer, without appraisement, the least amount of the property seized which any bidder will buy for the amount of the taxes, interest, and costs.

Comment – 2008

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

§2145. Movable property; additional sanction for tax collection

A. When it is necessary, the tax collector shall seize, advertise in the manner provided for judicial advertisement, and sell any other property belonging to the tax debtor to collect the taxes, interest, and costs due by the debtor for whatever it will bring in cash, without appraisement, and in such case, the tax collector shall make sales of the property of delinquent tax debtors as often as he is able to find any property of the debtors, until all the taxes, interest, and costs due by them are paid.

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

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due by the debtor, as attorney fees, which amount shall be collectable in the same manner as the taxes, interest, and costs due by such debtor.

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

D. The state and its subdivisions and all cities, towns, and villages shall have a first lien and privilege on all movable property for the payment of all taxes on personal property, in all judicial or insolvency proceedings, receiverships, or liquidations, whether seizure has been made or not, for such taxes previous to such proceedings, receiverships, or liquidations.

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

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

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Comment – 2008

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

§2146. Movable property; tax debtors' rights

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

B. When seizure is made of movable property in any of the forms provided to enforce the payment of taxes, the debtor may secure release of the same until the day of sale upon his forthcoming bond, with solvent security in solido, which shall be executed in the same manner as forthcoming bonds for property seized under writs of fieri facias. Anyone so releasing his property shall return the same into the possession of the tax collector for sale on or before the day of sale; unless so returned, the forthcoming bond shall be considered forfeited and shall be filed in the office of the clerk of the civil district court of the parish and shall have the force and effect of a twelve months' bond to be executed by a writ of fieri facias issued thereon by the clerk against the principal and sureties in solido, as provided by law for the enforcement of twelve months' bonds. The forfeiture of the bond shall be made to appear by certificate of the tax collector written thereon.

Comment – 2008

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

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

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

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

Comment – 2008

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

SUBPART B. IMMOVABLE PROPERTY

§2151. Transfer after tax roll delivered

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

Comments – 2008

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

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

§2152. Immovable property; lots assessed together

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

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Comments – 2008

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

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

§2153. Notice of delinquency and tax sale

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

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

"Year	Ward	Sect.	Ass. #	Property #	Notice #

********PLEASE NOTE********	[NAME OF POLITICAL SUBDIVISION]
*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.	
*If monies for payment of taxes are in escrow, please forward tax notice to your mortgage company.	
*If a receipt is requested, enclose a self-addressed stamped envelope along with your payment.	
*Please notify the sheriff's office or the assessor's office with all address changes.	
*For questions about assessed value or millages contact: Assessor's Office: Property Tax Dept:	
*Payment may be made online at _____	
*[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.	

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Total Assessed Value Tax Distributions	Millages	Homestead Exemption	Taxes and other Statutory Impositions Due	Assessment Information
[add taxing districts]			[add amount of tax due each district]	Total Assessed Value
				Property Description
Total Statutory Impositions Due				
Interest				
Costs				
Total				

[Name of Tax Collector and Address]

Total Statutory Impositions Due	
Interest	
Cost	
Total	

[Tax Collector Name]

YEAR	WARD	SECT	ASS.#	PROPERTY	NOTICE #

Name of Tax Debtor
[address]_____

Make checks payable to: _____[Tax Collector Name]

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

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

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"DELINQUENT TAX LIST

_____ vs. Delinquent Tax Debtors
(insert appropriate taxing bodies)

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

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

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

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

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

(5) The tax sale shall convey and the purchaser shall take tax sale title to the whole of the property assessed to the delinquent tax debtor, or if there are separate assessments of undivided interests in an entire property, tax sale title to the whole of the undivided interests assessed to the delinquent tax debtor if it is the least quantity sufficient to satisfy the aggregate of all taxes, interest, penalties, and costs. The least quantity shall be determined by undivided interests. The tax collector shall then proceed to sell the lesser undivided interest of the whole property as will satisfy the charges and shall not entertain a bid in excess thereof. The tax collector may determine and establish that the least quantity that can be sold by undivided interests is one percent or less of the whole. The tax sale shall convey, and the purchaser shall take, tax sale title to the entirety of the property, or in the case of separate assessments for undivided interests in the property, tax sale title to the entirety of the undivided interest, intended to be assessed and sold as it was owned by the delinquent tax debtor regardless of any error in the dimensions or description of the property as assessed and sold. The tax collector in the advertisement or tax sale may give the full description according to original titles.

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(6) Except as otherwise provided in this Subpart, the tax sale shall be conducted in the manner provided by law for judicial sales. This provision shall not be construed to prohibit the tax collector from conducting the tax sale by using an online or electronic bidding process consistent with the law governing judicial sales.

C. Within thirty days after the filing of the tax sale certificate, or as soon thereafter as possible, the tax collector shall research the records of the recorder of conveyances on all property to which tax sale title was sold to tax sale purchasers for any transfers of the property that occurred after the preparation of the tax roll for the year that the property was sold for taxes. If there has been a transfer, within thirty days after filing a tax sale certificate, the tax collector shall use reasonable efforts to send the new owner a written notice that tax sale title to the property was sold. The notice shall state the amount necessary to redeem the property. This notice shall also advise the owner that the property may be redeemed at any time within three years or other applicable redemptive period after the date of filing of the tax sale certificate. This shall serve as the required notice to the transferee in Subsection A of this Section. This notice shall be sufficient if it is in the following form:

"[Date]

[Name of New Owner]

RE: Property No. _____

Ward _____ Section No. _____ Assessment No. _____

Subd. _____ Lot _____

Dear Sir/Madam,

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

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third party buyer may be entitled to take actual possession and full ownership of the property after this time.

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

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

Thank You,

Tax Collector of [name of political subdivision]

This notice concerns only the property described in the "regarding" portion of this letter; the address of that property may or may not be the same as the mailing address of this notice. Again, please contact our office if you feel that your received this notice in error.

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

Comments – 2008

(a) This Section consolidates and generally reproduces the substance of former R.S. 2180, 2180.1 and 2181 with certain modifications.

(b) The notice of delinquency and the notice of tax sale are combined in a single notice and a single publication. Statutory safe harbor forms for the notice and publication are provided in the Section.

(c) The form of publication provided in Subsection B clarifies that the least quantity of the property sold will be by undivided interests. The tax collector is not required to determine whether the property is divisible in kind thereby allowing a portion of the property to be separately sold for taxes. Therefore, the price at the tax sale will be the statutory impositions due. See R.S. 47:2154. The bidding will be by undivided interest such as, 90%, 85%, etc. of the whole parcel, with the lowest undivided interest bid being the winning bid. Of course, the tax debtor has the right to point out a portion of the property sufficient to satisfy the statutory impositions. See La. Const. Art. VII, § 25.

(d) Since under the revision to the Chapter the only causes for nullity are a redemption nullity, a payment nullity, or a sale to a prohibited buyer, problems with the notice or the publication do not create a nullity action. See R.S. 47:2122(7) & (9), and 47:2286; 47:2162.

§2154. Tax sales; time of sale; price

The tax collector shall seize, advertise, and sell tax sale title to the property or an undivided interest therein upon which delinquent taxes are due, on or before

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May first of the year following the year in which the taxes were assessed, or as soon thereafter as possible. The price shall be the amount of statutory impositions due on the property, costs, and interest.

Comment – 2008

This Section reproduces the substance of former R.S. 47:2182. It also provides that the price to be paid at the sale is the amount of statutory impositions. See also R.S. 47:2196(C). Bidding at the sale is by undivided interests. See R.S. 47:2153.

§2155. Tax sale certificate

A. The tax collector shall authenticate and file in accordance with law, in person or by deputy, in the political subdivision's name, a tax sale certificate to purchasers of any property to which tax sale title was sold for taxes, in which he shall relate in substance a brief history of the proceedings had, shall describe the property, state the amount of the taxes, interest, and costs and the bid made for the property, and the payment made to him in cash, cashier's check, certified check, money order, credit card, or wire transfer, or other payment method, shall sell tax sale title, and shall conclude the sale with the statement that the property shall be redeemable at any time during the applicable redemptive period beginning on the day when the tax sale certificate is filed with the recorder of conveyances in the parish in which the property is located. The tax sale certificate shall contain the full name and address of the tax sale purchaser. The tax sale certificate shall be sufficient if it is in the following form:

"Tax Sale Certificate

[Name of Political Subdivision]

v.

[Name of Tax Debtor]

State of Louisiana

Parish of _____

City of _____

To: _____

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

To-wit:

Ward _____ Section No. _____ Taxes $ _____

Assessment No. _____ Interest _____

Costs _____

Total _____

Property description: _____

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

NOW, THEREFORE, all the formalities of the law having been complied with, I [Name of Tax Collector], Tax Collector for said [Name of Political Subdivision], by virtue of the authority in me vested by the laws of the State of

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Louisiana do by these presents sell and transfer unto [Name and Address of Purchaser], tax sale title to property or the undivided interest of the tax debtor therein last above described with all the improvements thereon. The tax debtor or any person interested personally or as heir, legatee, creditor or otherwise, shall have the right to redeem the property for the period of three years [or other redemptive period] from the date of filing of this tax sale certificate. The redemption may take place by paying the price given including costs and five percent penalty thereon with interest at the rate of one percent per month until the redemption.

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

Witnesses:

_____
Printed Name: [Name of Tax Collector]

_____ [Name of Political Subdivision]
Printed Name:

By:_____

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

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

Comments – 2008

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

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

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

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§2156. Post-sale notice

A. Within the applicable redemptive period, the tax sale purchaser may send a written notice to any or all tax sale parties notifying the parties of the sale. The notice shall provide full and accurate information necessary to contact the tax sale purchaser, including the name, physical address, and telephone number of the purchaser. It shall be accompanied by a copy of the tax sale certificate received by the tax sale purchaser under the provisions of this Part and copies of the documents that the purchaser received with that sale. The notice shall inform the tax sale parties that the failure to redeem the property prior to the expiration of the applicable redemptive period will terminate the right to redeem the property, and the purchaser will have the right to seek confirmation of the tax title and take actual possession of the property. The notice shall be sufficient if it is in the form set forth in Subsection B of this Section.

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

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

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

(3) The notice shall be given until the end of the applicable redemptive period. The notice shall specify the property upon which the taxes are delinquent,

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the amount of taxes due, and the manner in which the property shall be redeemed and shall be sufficient if in the following form:

"[Date]

[Name Tax Debtor]

RE: Property No. _____

Ward ___ Section No. ____ Assessment No. _____

Subd. _____ Lot _____

Dear Sir/Madam,

This is an important notice. Please read it carefully. We are writing to inform you that the property taxes for the above noted property were not paid, and tax sale title to the property was sold to a tax sale purchaser for delinquent taxes for the year(s) _____. You may redeem this property within three years [or other applicable redemptive period] from _____ by paying to the [name of tax collector] the following amount due stated in or enclosed with this document. The redemptive period will expire _____. Under some circumstances, the third party buyer may be entitled to take actual possession and full ownership of the property after this time.

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

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

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

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

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

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

(1) If the redemptive period is greater than two years, each January or as soon as practical thereafter, each tax collector may send a written notice by United States mail, postage prepaid, to each tax notice party and each tax sale party whose interest is shown on a mortgage certificate filed prior to the filing of the tax sale certificate that tax sale title to the property has been sold at tax sale.

(2) If the redemptive period is two years or less, within thirty days after filing a tax sale to a third party, and thereafter each January and June or as soon thereafter as practical, each tax collector may send a written notice by United States mail, postage prepaid, to each tax notice party and each tax sale party whose interest is shown on a mortgage certificate filed prior to the filing of the tax sale certificate that tax sale title to the property has been sold at tax sale.

(3) The notice shall specify the property upon which the taxes are delinquent, the amount of taxes due, and the manner in which the property shall be redeemed and shall be sufficient if in the following form:

"[Date]

[Name of Tax Debtor]

RE: Property No. _____

Ward ___ Section No. ____ Assessment No. _____

Subd. _____ Lot _____

Dear Sir/Madam,

This is an important notice. Please read it carefully. We are writing to inform you that the property taxes for the above noted property were not paid, and tax sale title to the property was sold to [name of political subdivision] for delinquent taxes for the year(s) _____. You may redeem this property within three years [or other applicable redemptive period] from _____ by paying to the [name of tax collector] the amount due stated in or enclosed with this document. The redemptive period will expire _____. Under some circumstances, the [name of political subdivision] may be entitled to take actual possession and full ownership of the property or otherwise sell a full ownership interest in the property. After the

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expiration of the redemptive period, your rights to redeem may be limited. Continued possession of the property does not extend the redemptive period.

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

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

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

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

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

Comments – 2008

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

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

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

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

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

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

§2157. Notice of tax sale; affidavit; cancellation

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

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

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

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

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

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

[Date]

[Name]

[Address]

[City], [ST] [Zip]

RE: Property: [Property Address]

[Description of Property Abbr]

Parish of _____ , State of Louisiana

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

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

Your interest in the property **will be terminated** if you do not file a lawsuit in accordance with law within [60 days] [6 months] of the date of this notice."

B. The purchaser may also after the expiration of the redemptive period publish in the official journal of the appropriate political subdivision a notice containing the items in Subsection A of this Section once a week for two consecutive weeks. The published notice shall be sufficient if it is in the following form:

"NOTICE

[Names of tax sale parties]

THIS NOTICE BY PUBLICATION IS NOTIFICATION THAT YOUR RIGHTS OR INTEREST IN THE PROPERTY LOCATED IN _____, LOUISIANA DESCRIBED BELOW MAY BE TERMINATED BY OPERATION OF LAW IF YOU DO NOT TAKE FURTHER ACTION IN ACCORDANCE WITH LAW.

[brief legal description of property]

Improvements thereon bear Municipal No. _____.

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

Your interest in the property **will be terminated** if you do not file a lawsuit in accordance with law within [60 days] [6 months] of the date of the first publication of this notice."

C. The purchaser may file with the recorder of mortgages of the parish in which the property is located a copy of one of the notices provided in Subsection A of this Section that was sent to the tax debtor or the current owner. A transfer, mortgage, lien, privilege, or other encumbrance, other than a governmental lien, filed after the filing of the notice shall not affect the property. The recorder of mortgages or recorder of conveyances, as applicable, shall cancel, erase, terminate, or release, as applicable, the acts upon request of the purchaser.

D. After the expiration of the applicable time period set forth in the notice, the tax sale purchaser may file with the recorder of mortgages an affidavit indicating

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how the tax sale parties whose interest the purchaser intends to be terminated were identified, how the address of each tax sale party was obtained, how the notice was sent, the results of sending the notice, and the dates of publication. The affidavit may also contain a statement of the interests to which the purchaser takes subject. The recorder of mortgages shall index the affidavit only under the names of the tax sale purchaser and the tax debtor as mortgagors. The affidavit shall be sufficient if it is in the following form:

"AFFIDAVIT BY [NAME OF AFFIANT]	UNITED STATES OF AMERICA STATE OF LOUISIANA PARISH OF

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

(a) [Name of tax sale purchaser]

(b) [Name of tax debtor]

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

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

PERSONALLY CAME AND APPEARED:

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

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

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[Legal description of property]

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

Name	Interest In Property	Recordation Information

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

Name	Address

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

Name	State	Address

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.47:2157(A).

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

Name	Method	Results

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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 publication~~s~~ is attached and satisfied R.S.47:2157(B).

8. Pursuant to R.S.47:2157(E), the following interests are cancelled, terminated, erased, or released, as applicable, only insofar as they affect the property:

Name of Interest Holder	Name of Instrument	Recordation Information

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.

WITNESSES: AFFIANT:

_____ _____

Printed Name:_____ Printed Name_____

_____

Printed Name:

_____

NOTARY PUBLIC

Printed Name:_____

Notary/Bar Roll No.:_____"

E. The filing of the affidavit provided in Subsection D of this Section with the recorder of mortgages of the parish in which the property is located shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions due and owing to the political subdivision prior to the recordation of the tax sale certificate, and of all interests, liens, mortgages, privileges, and other encumbrances recorded against the property and listed in the affidavit. Governmental liens and statutory impositions due to other political subdivisions other than the selling political subdivision shall not be canceled or terminated. The

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recorder of mortgages shall index the affidavit only under the name of the tax debtor and current owner.

F. Upon filing of the affidavit under Subsection D of this Section, the recorder of mortgages and recorder of conveyances shall treat as canceled, terminated, released, or erased, as applicable, all the liens, privileges, mortgages, interests, or other encumbrances canceled, terminated, released, or erased under Subsection E of this Section, only insofar as they affect the property.

G. The tax sale purchaser shall be liable to and indemnify the recorder of mortgages, the recorder of conveyances, and any other person relying on the cancellation, termination, release, or erasure by affidavit for any damages that they may suffer as a consequence of such reliance if the recorded affidavit contains materially false or incorrect statements that cause the recorder to incorrectly cancel, terminate, release, or erase any interest as provided in the affidavit. The recorder of mortgages and the recorder of conveyances shall not be liable for any damages resulting to any person or entity as a consequence of the cancellation, termination, release, or erasure of any interest in compliance with this Section.

Comments – 2008

(a) This Section is new. It is designed to evidence as a matter of public record the conversion of tax sale title to ownership. See Civil Code Art. 477(A).

(b) Subsection A of this Section allows the tax sale purchaser to send a notice to any tax sale party that the redemptive period has expired and that an action for nullity must be brought within certain time periods or the cause of action for nullity is lost. If the tax sale purchaser desires to take the property subject to any tax sale party's interest, then the tax sale purchaser may elect not to send notice to that tax sale party. If the notice is given between the expiration of the redemptive period and five years after filing of the tax sale certificate, the tax sale party has six months to bring a nullity action. When the notice is given during this time period, the notice constitutes a notice of sale and the sending of the notice constitutes service of the notice under Louisiana Constitution Article VII, § 25. If the notice is given after five years has elapsed from the filing of the tax sale certificate, the tax sale party is given at least sixty days to bring a nullity action. A statutory safe harbor form of notice is provided. Nothing in this Subsection limits the method by which the notice is sent. It can be sent by ordinary mail, certified mail, return receipt requested, email or other electronic means, or a by a combination of methods. See R.S. 47: 2122.

(c) Subsection B allows the tax sale purchaser also to publish a notice setting forth the applicable time period within which a tax sale party must bring an action for nullity. A safe harbor form is provided.

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(d) Subsection C allows the tax sale purchaser to file in the mortgage records a notice letter sent to the tax debtor or the current owner. Any alienation of the property after the filing of this notice is ineffective.

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

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

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

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

§2158. Writ of possession

A. When necessary to comply with an order of a political subdivision for the purpose of enforcing property standards, upon the presentation of the order and a certified copy of a tax sale certificate for immovables to a judge of a competent jurisdiction (determined by the value of the immovables described and not the amount of the taxes), the judge shall grant ex parte an order of seizure and possession, commanding the sheriff to seize the property and place the purchaser in actual possession. A writ of possession shall be issued by the clerk, but the

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purchaser may take actual possession without the order with the consent or acquiescence of the tax debtor or otherwise, provided no force or violence is used.

B. The purchaser shall have a privilege on the property for the costs of complying with the order of the political subdivision. To preserve this privilege, the purchaser shall file the writ of possession with the recorder of mortgages of the parish in which the property is located within fifteen days after its issuance. The effect of recordation shall cease one year after the date of filing the writ of possession, unless a statement of privilege referencing the writ and detailing the costs is filed with the recorder of mortgages before the expiration of one year from the date of filing the writ. In this case, the effect of recordation shall cease one year after the date of filing the statement of privilege, unless a suit to enforce the privilege and a notice of lis pendens is filed with the recorder of mortgages prior to the cessation of the effects of recordation.

Comments – 2008

(a) Subsection A is based on former R.S. 47:2185. It modifies the law in part. This Section allows a writ of possession to be issued only when the possession by the tax sale purchaser is necessary to comply with the order of a political subdivision for enforcing property standards, such as a condemnation order.

(b) Subsection B is new. It provides for a privilege in favor of the tax sale purchaser for the cost of complying with an order of a political subdivision. To preserve this privilege, the writ of possession must be filed within fifteen days of its issuance. The effect of recordation ceases in one year unless a statement of privilege is filed detailing the costs prior to the expiration of the one year period. This second one year period perempts unless a suit is filed and a lis pendens is filed prior to the expiration of the second one year period.

§2159. Request for notice

Any person may request that all notices that are sent to a tax debtor also be sent to the requesting person by sending a written notice to the appropriate tax collector listing the name of the tax debtor, a legal description of the property, and the address to which the notice is to be sent. The person requesting notice shall also pay a reasonable sum not to exceed twenty dollars to the tax collector to defray the cost of providing the notice. A mortgage holder who has requested notice and paid the fee shall receive notices until such time that the tax collector receives notice of the cancellation of the mortgage inscription.

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Comments – 2008

This Section reproduces the substance of former R.S. 47:2180.1(A). It also expands the persons who may request the notice from mortgagees only to any person.

§2160. Tax sale title; effect on other statutory impositions

Tax sale title to property shall not affect, invalidate, or extinguish the claim of another political subdivision for the taxes due on the property that were not included in the bid price.

Comments – 2008

(a) This Section is based on former R.S. 47:2192.

(b) In several parishes there are multiple taxing districts that conduct their own tax sales. For example, the Parish of Caddo and the City of Shreveport conduct separate tax sales on property located in the City of Shreveport. This revision does not address the issue of overlapping tax sales of the same property for the same tax year by different political subdivisions. This issue is left for the courts to decide. See e.g., *Phillips v. Abney,* 377 So. 2d 1314 (La. App. 1 Cir. 1979). This Section makes clear that the tax sale by one political subdivision does not affect the statutory impositions of another political subdivision on the same property. In those parishes where multiple political subdivisions conduct tax sales on the same properties, all the political subdivisions within a parish should enter into a cooperative endeavor agreement allowing the tax collector of the parish to conduct one tax sale for all the political subdivisions within a parish.

§2161. Tax sale title; payment of taxes by purchaser

From the date of filing a tax sale certificate selling tax sale title to a tax sale purchaser, all taxes on the property shall, after that date, be assessed to and paid by the tax sale purchaser until the property, or any part, is redeemed. If redeemed, the person redeeming shall pay all statutory impositions assessed upon the property subsequent to the tax sale. The failure to assess the property in the name of the tax sale purchaser shall not affect the validity of the tax sale.

Comments – 2008

(a) This Section reproduces the substance of former R.S. 47:2193. It is not intended to change the law. It requires the person redeeming to pay all subsequent statutory impositions as well. See R.S. 47:2241 et seq.

(b) This Section clarifies the law by providing that failure to assess the property in the name of a tax sale purchaser is not a cause for annulling the tax sale. See R.S. 47:2286.

(c) The purpose of this Section is to insure that the original tax debtor does not receive a notice the next tax year after a tax sale that only the taxes due for the tax year subsequent to the tax sale are due. This notice would not indicate that there was a tax sale for the previous year's taxes, and those taxes remain due.

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Notwithstanding the fact that the property is assessed in the name of the tax sale purchaser and the tax sale purchaser will receive notice of the subsequent taxes, the tax debtor should receive a notice that there was a tax sale and of his right to redeem the property under R.S. 47:2156.

§2162. Purchase by tax collectors and assessors at tax sale forbidden

The tax collector or tax assessor for the political subdivision, or any other person acting on behalf of the political subdivision whose duties are to assess or collect ad valorem taxes for the political subdivision, shall not buy, either directly or indirectly, any property or tax sale title sold or offered for sale for ad valorem taxes imposed by that political subdivision. The sale shall be subject to an action for nullity except that the violation of this Section shall not be a cause for annulling the sale if the property or tax sale title has been sold by the violator, his successor, or assigns to a person who purchased the property in good faith by onerous title. In addition to any other penalties provided by law for violation of this Section, the violator shall disgorge any profits he has made, either directly or indirectly, to the tax debtor.

Comments – 2008

(a) This Section reproduces the substance of former R.S. 47:2194.

(b) A sale in violation of this Section can be annulled if the property has not been sold by the violator, but cannot be annulled if the violator sold the property under onerous title to a person in good faith.

(c) Regardless of whether the property has been sold by the violator, the violator must disgorge any profits made from violation of this Section in addition to any other penalties imposed by criminal law or laws governing ethics of public officials.

§2163. Purchase by co-owners

An owner or co-owner may pay the statutory impositions plus interest and costs due at the time of the tax sale. The purchase of tax sale title to property at a tax sale by an owner or co-owner of the property shall be deemed a redemption.

Comments – 2008

(a) This Section is new. It is not intended to change the law. It codifies a rule created by jurisprudence constant. See e.g., *Keller v. Haas*, 24 So. 2d 610 (La. 1945).

(b) This Section is not intended to overrule the jurisprudence constant that provides that purchase of tax sale title at a tax sale may serve as an overt and unambiguous act that the tax sale purchaser intends to possess adversely to his co-

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owners under Civil Code Article 3478. See e.g., *Givins v. Givins,* 273 So. 2d 863 (La. App. 2 Cir. 1973).

PART IV. ADJUDICATED PROPERTY

SUBPART A. GENERAL PROVISIONS

§2196. Adjudication to political subdivisions

A. Subject to Article VII, Section 25(A)(2) of the Constitution of Louisiana, the bid to be accepted in tax sales shall be at least equal to the statutory impositions, costs, and interest; otherwise, the tax collector shall bid in tax sale title to the property for the political subdivision. The tax collector shall make out a tax sale certificate and file the tax sale certificate with the recorder of conveyances of the parish in which the property is located. The tax sale certificate shall be sufficient if it is in the following form:

"[Name of Political Subdivision]

v.

[Name of Tax Debtor]

State of Louisiana

Parish of _____

City of _____

To: _____

BE IT KNOWN AND REMEMBERED, that, I, [name of tax collector], Tax Collector for the [name of political subdivision], in the name of the [name of political subdivision], and by virtue of the authority in me vested by the Constitution and laws of the State of Louisiana and, pursuant to the requirements of the law, having mailed and published the notice required by the law, and having strictly complied with each and every requirement of the law relating to delinquent taxes, tax debtors, and to seizures, advertisements, and sale of tax sale title to the property in full, did in the manner prescribed in the law, advertise and list in [name of appropriate journal for legal notices] the property to be sold for delinquent property taxes with interest and costs for the year(s) of _____ in the [place

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of sale] on [dates of publication], beginning at ten o'clock A.M. giving notice in the issues of the newspaper and in the list as advertised the following described property:

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

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

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

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

Witnesses:

_____

Printed Name:_____ [Name of Tax Collector]

_____ [Name of Political Subdivision]

Printed Name:

By:_____"

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

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

D. The political subdivision with the agreement of the tax collector may readvertise the selling of tax sale title to a property or properties so adjudicated at any regularly scheduled tax sale, and that tax sale shall utilize the same procedure required by R.S. 47:2153 and 2154. However, the purchase price or bid shall be the redemption price. If the tax collector does not agree to readvertise the selling of tax sale title to the property or properties so adjudicated to the political subdivision for sale, if the political subdivision decides not to readvertise, or if the property is readvertised but not sold, the property shall remain adjudicated property, unless it has been redeemed. The purchaser of a tax sale title to an adjudicated property shall be deemed to have purchased the property at the tax sale at which the property was adjudicated to the political subdivision.

Comments – 2008

(a) This Section reproduces the substance of the first paragraph of former R.S. 47:2186. It changes the law in part. A safe harbor form of tax sale certificate for adjudicated property is provided.

(b) Subsection D is new and allows the political subdivision, with the agreement of the tax collector, to place adjudicated property back up for tax sale the following year or years. In this case, the bid will be the redemption price. See R.S. 47:2241 et seq.

§2197. Effect of adjudication

Adjudicated property shall remain assessed in the name of the tax debtor, and if transferred, the new or current owner. The political subdivision shall have no liability with respect to the property resulting solely from the adjudication. No encumbrance against a political subdivision shall affect adjudicated property.

Comment – 2008

This Section is new. It is not intended to change the law. When property is adjudicated to a political subdivision at tax sale it remains assessed in the name of the tax debtor. As to political subdivisions, no liability results solely from the adjudication at the tax sale.

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SUBPART B. SALES OR DONATIONS TO A THIRD PARTY

§2201. Ordinance; sale or donation of adjudicated property

A political subdivision may adopt ordinances regarding the public sale or donation of adjudicated property that complies with R.S. 47:2202, 2203, and 2206.

Comments – 2008

(a) This Section is new. It allows any political subdivision to adopt a general ordinance governing the public sales and donations of adjudicated property provided it meets the requirements of R.S. 47:2202, 2203, and 2206. Private sales of adjudicated property are no longer authorized. The ordinance may authorize the appointment of a third party to administer the sale or donation of adjudicated property on behalf of the political subdivision.

(b) Under this Section and the following Sections, the concepts of "vacant", "not lawfully occupied", "blighted" and "abandoned" are eliminated as impairments to merchantability. It is suggested, but not required, that any potential purchaser or donee inspect the property prior to bidding or accepting a donation of adjudicated property, since if the property is occupied it is more likely to be redeemed. This idea comports with the philosophy of the revision to place the burden on prospective purchasers or donees to make such business decisions.

§2202. Minimum bid prices; sale of adjudicated property

The governing authority of each political subdivision may elect to set a dollar amount as a minimum bid for the public sale of adjudicated property, which shall be at least the total amount of statutory impositions, governmental liens, and costs of sale. The governing authority of each political subdivision may elect also to require an appraisal of adjudicated property to be sold at public sale. If the political subdivision elects to use the appraised value to establish a bidding floor instead of setting a dollar amount minimum bid as allowed by this Section, the political subdivision shall appoint a licensed appraiser to appraise and value the property. The minimum bid at the first public sale shall be at least two-thirds of the appraised value of the property. If the property fails to sell at the first public sale, the minimum bid at the second sale shall be one-third the appraised value of the property.

Comments – 2008

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

(b) The minimum bid can be the total amount of all statutory impositions, including statutory impositions of other political subdivisions affecting the property, plus the total amount of governmental liens plus the costs of sale. If the political

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subdivision uses this amount as the minimum bid, there is only one public sale. If the minimum bid is not met, there is no sale.

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

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

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

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

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

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

C. Advertisement. A public sale shall be advertised twice in the official journal for the political subdivision, once at least thirty days prior to the date of the public sale, and once no more than seven days prior to the date of the public sale. The advertisement shall provide for the minimum bid, the latest date written bids will be accepted, the time and date of in-person bidding, and any other terms of sale.

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Comments – 2008

(a) Subsection A is new. It allows the political subdivision to initiate the sale of adjudicated property by ordinance. It does not prohibit the public auction of numerous adjudicated properties at one time.

(b) Subsection B reproduces the substance of R.S. 33:2867.1. Subsection B allows individuals to initiate a public sale of particular adjudicated property. This requires a deposit for the costs of the political subdivision to be refunded to the initiator if the initiator is not the successful bidder unless the minimum bid is not met, in which case, the deposit is retained by the political subdivision to cover its costs.

§2204. Additional terms of ordinance; sale of adjudicated property

The ordinance allowing for the public sale of adjudicated property may provide that the public sale may be subject to terms and conditions imposed by the political subdivision in the ordinance. An ordinance may provide that a subsequent ordinance is required to approve the sale.

Comments – 2008

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

(b) This Section allows the political subdivision to impose terms and conditions on any public sale. Such terms and conditions could be that low to moderate income housing be built within a certain time period, the property only be used for first time homebuyers, construction must commence in one year, and the like.

(c) An ordinance can provide that any successful bid is subject to approval by the governing body in a subsequent ordinance. The subsequent approval ordinance also may contain terms and conditions.

§2205. Donations of adjudicated property

The governing body of a political subdivision may by ordinance allow the donation of any identified adjudicated property to any person to the extent allowed by the Louisiana Constitution. The donated property can be used only for purposes allowed by the Louisiana Constitution.

Comment – 2008

This Section is new. It allows the donation of adjudicated property subject to constitutional limits. See La. Const. Art. VII, § 14.

§2206. Notice; sale or donation of adjudicated property

A.(1) Either the political subdivision or the acquiring person shall send a written notice notifying any tax sale party whose interest the successful bidder or

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donee intends to be terminated that the party has until the later of the following to redeem the property or otherwise challenge in a court of competent jurisdiction the potential sale or donation:

(a) Sixty days from the date of the notice provided in this Subsection, if five years have elapsed from the filing of the tax sale certificate, or six months after the date of the notice provided for in this Subsection, if five years have not elapsed since the filing of the tax sale certificate.

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

(2) If this notice is given after the expiration of the applicable redemptive period, this notice shall constitute a notice of sale. The sending of this notice shall constitute service of the notice of sale under Article VII, Section 25 of the Louisiana Constitution. The notice required by this Section shall be sufficient, and it shall not be necessary to determine whether notice of the tax sale or any other notice was given. The written notice shall be sufficient if it is in the following form:

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

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

[Date]

[Name]

[Address]

[City], [ST] [Zip]

RE: Property: [Property Address]

[Description of Property Abbr]

Parish of _____, State of Louisiana

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

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

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[Tax collector name, address, telephone number]"

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

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

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

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

"NOTICE

[Names of Tax Sale Parties]

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

[Brief legal description of property]

Improvements thereon bear Municipal No. _____.

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

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

[Tax collector name, address, telephone number]"

C. The political subdivision or acquiring person may file with the recorder of mortgages of the parish in which the property is located a copy of one of the

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notices that was sent to the tax debtor or the current owner. A transfer, mortgage, lien, privilege, or other encumbrance filed after the filing of the notice shall not affect the property. The recorder of mortgages or recorder of conveyances shall cancel, erase, terminate, or release the acts upon the request of the acquiring person.

Comments – 2008

(a) This Section is based on former R.S. 33:2881 and 33:2870.

(b) This Section is substantially similar to R.S. 47:2157(A), (B), and (C). See the Comments to R.S. 47:2157. The only substantive differences from R.S. 47:2157 (A), (B) and (C) are two fold. First, a duly notified person has until the later of the expiration of the applicable six month or sixty day time period or the recording of the act of sale/donation in which to either redeem or bring and action of nullity. Second, the Section allows the notice to be sent prior to the expiration of the applicable redemptive period. If the notice is sent prior to the applicable redemptive period, the duly notified party would still have to the later of the six month time period, the recordation of the act of sale or the expiration of the redemptive period in which to redeem or bring a nullity action. Under either of these two scenarios, as a practical matter, the duly notified person only has the right to redeem, whether through the standard redemption process or through a lawsuit, since he would have been duly notified by the notice, unless of course the duly notified person is claiming a payment nullity.

(c) Successors and assigns of an acquiring person may utilize this notification process as well.

§2207. Sale or donation of adjudicated property; authentication; form

A. At any time after the expiration of the sixty-day or six-month periods, as applicable, set forth in R.S. 47:2206(A) and (B), and, if applicable, upon the satisfaction of any terms or conditions required in the ordinance authorizing the sale or donation, the acquiring person, or his successors and assigns, may send to the political subdivision a written notice requesting that the political subdivision authenticate a sale or donation. The political subdivision shall authenticate the sale or donation within ten days from the date of the request or as soon thereafter as practical. The acquiring person shall be responsible for filing the sale or donation and payment of all filing fees. The only warranty owed by the political subdivision shall be a warranty against eviction resulting from a prior alienation by the political subdivision. Otherwise, all sales and donations shall be without warranty, either expressed or implied, even as to return or reduction of the purchase price, including without limitation the warranty against redhibitory defects or vices and the warranty that the thing sold is reasonably fit for its ordinary purpose or the acquiring person's

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intended or particular purpose. These waivers or exclusions of warranties shall be self-operative regardless of whether the waivers or exclusions are contained in the act of sale or donation, and regardless of whether they are clear and unambiguous, and regardless of whether they are brought to the attention of the acquiring person. This provision supersedes the requirements of any other law.

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

"NON-WARRANTY CASH SALE

STATE OF LOUISIANA

PARISH OF _____

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

[NAME OF POLITICAL SUBDIVISION],

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

Seller sells, without any warranty of title whatsoever, either expressed or implied, even as to the return or reduction of the purchase price, except for the warranty against eviction resulting from a prior alienation by the political subdivision, but with full substitution and subrogation in and to all the rights and actions of warranty which Seller may have, to:

[NAME OF PURCHASER]

a _____, [for individuals, add marital status] whose permanent mailing address is _____, referred to as "Purchaser", all of Seller's right, title and interest in and to the property more fully described on Exhibit "A" attached hereto and made a part hereof, together with all appurtenances thereunto belonging or in any way appertaining, and all buildings and improvements located on the property, if any, collectively referred to as the "Property".

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This sale is made and accepted for and in consideration of the sum of _____ ($_____) cash, which Purchaser has paid to Seller.

[Purchaser acknowledges that the property is being conveyed subject to any and all conditions and restrictions which may be required or recited in the attached ordinance.]

The _____ ad valorem taxes are to be paid by Purchaser.

THUS DONE AND PASSED by Seller, before me, Notary, and the undersigned competent witnesses, on this _____ day of _____, _____, in the city of _____, Louisiana.

WITNESSES: SELLER:

[NAME OF POLITICAL SUBDIVISION]

_____

Printed Name:

_____

Printed Name:

Name:

Title:

_____

NOTARY PUBLIC

Printed Name: _____

Notary/Bar Roll No.: _____

THUS DONE AND PASSED by Purchaser, before me, Notary, and the undersigned competent witnesses on this _____ day of _____, _____, in the city of _____, Louisiana.

WITNESSES: PURCHASER:

[[NAME OF PURCHASER]

_____

Printed Name:

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_____

Printed Name:

Name:
Title:

_____

NOTARY PUBLIC

Printed Name: _____
Notary/Bar Roll No.: _____

C. The writing constituting the donation shall be sufficient if it is a writing in the following form:

"NON-WARRANTY DONATION

STATE OF LOUISIANA

PARISH OF _____

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

[NAME OF POLITICAL SUBDIVISION],

a political subdivision of the State of Louisiana, represented herein by _____, authorized by virtue of the attached Ordinance of [name of governing body for the political subdivision], hereinafter referred to as "Donor", who declared that:

Donor donates and delivers, without any warranty of title whatsoever, either express or implied, except for the warranty against eviction resulting from a prior alienation by the political subdivision, but with full substitution and subrogation in and to all the rights and actions of warranty which Donor may have, to :

[NAME OF DONEE]

a _____, [for individuals, add marital status] whose permanent mailing address is _____, referred to as "Donee", all of the right, title and interest of the Donor in and to the property more fully described on Exhibit "A" attached hereto and made a part hereof, together with all appurtenances thereunto belonging or in any way appertaining, and all buildings and

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improvements located on the property, if any, collectively referred to as the "Property".

This donation is accepted by Donee.

Donee warrants and acknowledges to and agrees with Donor that Donee is accepting the property subject to any and all conditions and restrictions which may be required or recited in the attached ordinance.

Donor has been advised that the property donated can be used only for the purposes set forth in Article VII, Section 14(B) of the Louisiana Constitution.

The _____ ad valorem taxes are to be paid by Donee.

THUS DONE AND PASSED by Donor, before me, Notary, and the undersigned competent witnesses, on this _____ day of_____, _____, in the city of _____, Louisiana.

WITNESSES: DONOR: _____
[NAME OF POLITICAL SUBDIVISION]

_____
Printed Name:

_____
Printed Name:

Name:
Title:

_____
NOTARY PUBLIC

Printed Name: _____
Notary/Bar Roll No.: _____

THUS DONE AND PASSED by Donee, before me, Notary, and the undersigned competent witnesses, on this _____ day of _____, _____, in the city of _____, Louisiana.

WITNESSES: DONEE: _____
[NAME OF DONEE]

_____
Printed Name:

_____
Printed Name:

Name:
Title:

_____
NOTARY PUBLIC

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

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D. The provisions of R.S. 41:1338 shall not apply to the property being sold or donated in accordance with this Section.

E. A certified copy of the sale or donation shall be prima facie evidence of the regularity of all matters dealing with the sale or donation and the validity of the sale or donation.

Comments – 2008

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

(b) Subsection A provides that an acquiring person may require the political subdivision to authenticate an act of sale or donation. Notwithstanding any law to the contrary, by statute such acts are without any warranties whatsoever, except for a warranty against eviction based on a prior alienation by the political subdivision. This Section overrides the implied warranties contained in Civil Code Articles 2500 et seq. and 2520 et seq.

(c) Subsections B and C provide safe harbor forms for the sale and donation respectively. The forms allow the political subdivision to make the sale subject to any restrictions contained in any applicable ordinance.

(d) R.S. 41:1338 does not apply to any property donated or sold pursuant to this Section. In particular, the right of first refusal of the political subdivision contained in R.S. 41:1338 does not apply to any subsequent transfer of the property.

§2208. Sale or donation of adjudicated property; affidavit

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

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"AFFIDAVIT BY [NAME OF AFFIANT]	UNITED STATES OF AMERICA STATE OF LOUISIANA PARISH OF _____

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

(a) [Name of owner causing the filing of the affidavit]

(b) [Name of tax debtor]

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

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

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

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

[Legal description of property]

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

Name	Interest in property	Recordation information

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

Name	Address

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

Name	State	Address

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. 47:2206(A).

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

Name	Method	Results

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 publication is attached and satisfied R.S. 47:2206B).

8. Pursuant to R.S. 47:2208(C), the following interests are cancelled, terminated, erased or released, as applicable, only insofar as they affect the Property:

Name of interest holder	Name of instrument	Recordation information

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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.

WITNESSES:	AFFIANT:
_____	_____
Printed Name: _____	Printed Name: _____
_____	
Printed Name: _____	

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

B. With respect to a sale, the filing of the affidavit provided in Subsection A of this Section shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions of all political subdivisions then due and owing, of all governmental liens, and of all interests, liens, mortgages, privileges, and other encumbrances recorded against the property sold and listed in the affidavit.

C. With respect to a donation, the filing of the affidavit provided for in Subsection A of this Section shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions of the donor political subdivision, and all other interests, liens, mortgages, privileges, and other encumbrances recorded against the property donated and listed in the affidavit, except governmental liens and statutory impositions of political subdivisions other than the donee political subdivision.

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

E. The owner filing the affidavit shall be liable to and indemnify the recorder of mortgages, the recorder of conveyances, and any other person relying on the cancellation, termination, release, or erasure by affidavit for any damages that they

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may suffer as a consequence of such reliance if the recorded affidavit contains materially false or incorrect statements that cause the recorder to incorrectly cancel, terminate, release, or erase any interest listed in the affidavit. The recorder of mortgages and the recorder of conveyances shall not be liable for any damages resulting to any person or entity as a consequence of the cancellation, termination, release, or erasure of any interest in compliance with this Section.

Comment – 2008

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

§2209. Sale or donation to tax debtor

Notwithstanding any provision of law to the contrary, when a tax debtor or an owner participates, directly or indirectly, in a post-adjudication sale or donation during or subsequent to expiration of the redemptive period, it shall be treated as a redemption, and the tax debtor or owner shall be required to pay all taxes and costs in accordance with all laws applicable to redemptions. However, if the property is redeemed, all mortgages, liens, privileges, and other encumbrances affecting the property prior to the sale shall remain in full force and effect with the same validity and priority as if the sale had not occurred.

Comments – 2008

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

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

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

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§2210. Liability of owner of adjudicated property

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

Comments – 2008

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

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

§2211. Disposition of proceeds of sale of adjudicated property

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

Comments – 2008

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

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

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

SUBPART C. POLITICAL SUBDIVISIONS ACQUIRING OWNERSHIP

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

After the tax sale certificate for adjudicated property is filed with the recorder of conveyances, the political subdivision may institute a suit in the district court of the parish in which the property is located to obtain possession of the adjudicated property. The suit shall be tried by summary proceeding and shall be prosecuted

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without costs of court to the political subdivision. Whenever revenue is received from the adjudicated property as provided in this Subpart, the political subdivision shall pay the court costs out of the first revenue received.

Comment – 2008

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

§2232. Order of seizure and possession

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

Comment – 2008

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

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

The political subdivision, through its tax collector, upon taking or being placed in possession by judgment of court may, without the necessity of public letting, lease the adjudicated property on commercially reasonable terms and collect rentals. The political subdivision shall apply the rentals first to the payment of all costs of court incurred in the proceeding. Thereafter, all rental income shall be applied against any taxes, charges imposed pursuant to R.S. 33:1236, or paving or other local improvement assessments due against the property. When all of the obligations have been paid in full, the political subdivision shall issue a proper certificate of redemption and surrender its possession of the property.

Comment – 2008

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

§2234. Redemption of property; payment of assessments

Whenever any property has been adjudicated to a political subdivision for the full amount of the past and future installments of paving or other local improvement assessments, the owner of the property may be permitted, upon written request, to

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redeem the property by paying the past due and current installments only, together with interest, costs, and penalties. In this event, the remaining and future installments of the charges shall be collected as they fall due, and the lien shall remain unaffected and shall be valid and effective against the property until fully paid.

Comment – 2008

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

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

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

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

C. If a servitude has been declared in accordance with this Section and the property is redeemed, the owning political subdivision shall compensate the redeeming owner for the value of the servitude declared. The compensation shall be in accordance with the provisions of the Louisiana Constitution. Value shall be determined as of the date on which the ordinance and act are filed as required by Subsection B of this Section.

Comment – 2008

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

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

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

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

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

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

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

(2) If this notice is given after the expiration of the applicable redemptive period, this notice shall constitute a notice of sale. The sending of this notice shall constitute service of the notice of sale under Article VII, Section 25 of the Constitution of Louisiana. The notice required by this Section shall be sufficient, and it shall not be necessary to determine whether notice of the tax sale or any other notice was given. The notice shall be sufficient if it is in the following form:

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

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

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

[Date]

[Name]

[Address]

[City], [ST] [Zip]

RE: Property: [PropertyAddress]

[DescriptionofPropertyAbbr]

Parish of _____, State of Louisiana

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

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

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

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

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

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

(b) Six months if the tax sale certificate was filed less than five years before the first publication of the notice provided in this Subsection.

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

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

"NOTICE

[Names of Tax Sale Parties]

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

[Brief legal description of property]

Improvements thereon bear Municipal No. _____.

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

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

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

[Tax collector name, address, telephone number]"

E. If the property is not redeemed within the time limit set forth in Subsection C of this Section, the ordinance shall become operative, and the political subdivision shall acquire full ownership of the property as provided in the ordinance, subject only to such rights as determined by a final judgment rendered in an action filed within the time limits set forth in Subsection C of this Section. The political subdivision shall file a notice in the conveyance records indicating that the political subdivision has acquired full ownership of the property in compliance with this Section. The notice shall be sufficient if it is in the following form:

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"NOTICE

[Name of political subdivision] certifies that it has complied with the provisions of R.S. 47:2236 and that it has acquired full ownership in the following described property:

[Legal description of property]

[Name of political subdivision]

by _____

Name: _____

Title: _____"

F. Contemporaneously with or subsequent to the filing of the notice, the political subdivision may file with the recorder of mortgages an affidavit indicating how the tax sale parties whose interest the political subdivision intends to be terminated were identified, how the address of each tax sale party was obtained, how the written notice was sent, the results of sending the written notice, and the dates of publication. The affidavit may also contain a statement of the interest to which the political subdivision takes subject. The recorder of mortgages shall index the affidavit only under the names of the political subdivision and the tax debtor, as mortgagors. The affidavit shall be sufficient if it is in the following form:

"AFFIDAVIT BY [NAME OF AFFIANT]	UNITED STATES OF AMERICA STATE OF LOUISIANA PARISH OF _____

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

(a) [Name of political subdivision]

(b) [Name of tax debtor]

BE IT KNOWN, on the _____day of_____ [MONTH], _____ [YEAR]

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

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

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

[Legal description of property]

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

Name	Interest In Property	Recordation Information

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

Name	Address

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

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Name	State	Address

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).

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

Name	Method	Results

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).

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:

Name of Interest Holder	Name of Instrument	Recordation Information

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.

WITNESSES: AFFIANT:

_____ _____
Printed Name:_____ Printed Name: _____

_____
Printed Name: _____

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

G. The filing of the affidavit provided in this Section with the recorder of mortgages of the parish in which the property is located shall operate as a

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cancellation, termination, release, or erasure of record of all statutory impositions of all political subdivisions then due and owing, of all governmental liens, and of all interests, liens, mortgages, privileges, and other encumbrances recorded against the property sold and listed in the affidavit.

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

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

Comments – 2008

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

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

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

(d) Subsection A requires that the political subdivision pass an ordinance declaring the intention to acquire a full ownership interest. Subsection B requires that the ordinance be filed with the recorder of mortgages to be indexed under the name of the tax debtor and political subdivision only. The recordation cuts off any future encumbrances like the filing of a notice letter under other provisions of this Chapter. See 47: 2157(C).

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

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

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

§2237. Sale or donation of adjudicated property; authority

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

Comment – 2008

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

PART V. REDEMPTIONS

SUBPART A. GENERAL PROVISIONS

§2241. Redemptive period peremptive

All redemptive periods provided in the Louisiana Constitution shall be peremptive.

Comment – 2008

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

§2242. Person entitled to redeem

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

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Comment – 2008

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

§2243. Redemption payments

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

Comments – 2008

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

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

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

§2244. Additional payments to political subdivision

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

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

Comment – 2008

This Section is new. It modifies the law in part. The Section details the costs that a political subdivision may impose as part of the redemption price. It eliminates the right of a tax sale purchaser to collect costs. It modifies the law to allow the political subdivision to require that governmental liens be paid as well as part of the redemption price.

§2245. Redemption certificate

Upon payment of the redemption costs, the tax collector shall issue a redemption certificate in the name of the tax debtor and file the redemption certificate in the appropriate conveyance records. The redemption certificate shall be sufficient if it is in the following form:

"CERTIFICATE OF REDEMPTION

STATE OF LOUISIANA

PARISH OF _____

CITY OF _____

Having this day received from _____ the sum of _____ Dollars ($_____), being the full amount of taxes, costs, penalties and interest, plus any subsequently paid taxes, accruing from that certain tax sale on the _____ day of _____, _____, for the delinquent [name of political subdivision] taxes for the year _____, assessed to _____ covering tax sale title to that certain immovable property located in the parish described as which property was adjudicated at said tax sale to _____.

NOW THEREFORE I, under the authority conferred on me by act R.S. 47:2245, hereby certify said property as being redeemed to said tax debtor, or his successors in title, from any claims arising out of said tax sale.

DONE AND SIGNED at my office in _____, Louisiana this _____ day of _____, _____.

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

ATTEST:

_____ _____
Printed Name: _____ [Name of tax collector] and Ex Officio
Tax Collector

_____
Printed Name: _____"

Comment – 2008

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

SUBPART B. ADJUDICATED PROPERTY

§2246. Statutory right to redeem adjudicated property

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

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

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

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

Comment – 2008

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

§2247. Redemption of adjudicated property; additional payments

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

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

Comment – 2008

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

PART VI. PROCEDURES TO QUIET TAX TITLE

SUBPART A. PROCEEDING TO QUIET TITLE

§2266. Procedure to quiet tax titles

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

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

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

B. In all cases when tax titles have been quieted by prescription of five years under the provisions of Article VII, Section 25 of the Louisiana Constitution, the purchaser, donee, or his heirs or assigns may, either obtain a judgment of the court confirming the title by suit in the manner and form in Subsection A of this Section, except that the delay for answer shall be ten days instead of six months, provided that the failure to bring suit shall in no manner affect such prescriptive titles.

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

Comment – 2008

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

SUBPART B. MONITION PROCEEDINGS

§2271. Availability of monition

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

Comments – 2008

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

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

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

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§2272. Contents of petition

The petition for monition shall state the manner of acquisition. The petitioner shall attach to the petition a certified copy of the tax sale certificate, donation, or other title instrument under which the property or tax sale title was obtained from the political subdivision and a certified copy of the sale, donation, or other title instrument under which the petitioner obtained title or tax sale title to the property, if different.

Comment – 2008

This Section is based on R.S. 13:4943. It is not intended to change the law.

§2273. Grant of monition

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

Comment – 2008

This Section is based on R.S. 13:4944. It is not intended to change the law.

§2274. Lis pendens

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

Comments – 2008

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

§2275. Notice

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

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

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

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

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

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

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

[Date]

[Name]

[Address]

[City], [ST] [Zip]

RE: Property: [PropertyAddress]

[DescriptionofPropertyAbbr]

Parish of _____, State of Louisiana

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

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

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

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proceeding") by [name of petitioner], which purchased the property pursuant to [name of act] and recorded as [recordation information] of the official records of _____ Parish, Louisiana. The monition has been published on [date of first publication] (the "publication") in the official journal(s) of _____ Parish, including [list name(s) of official journal].

If you do not file an opposition in the Monition Proceeding or file an action for a nullity under Chapter 5 of Subtitle III of Louisiana Revised Statutes Title 47, within [60 days] [6 months] of the publication date stated above, your interest in the property listed above **will be terminated**."

Comment – 2008

This Section is new. It changes the law. In the monition proceedings covering tax sales, the petitioner is required to send a notice. This notice Section is substantially similar to the notice provision in R.S. 47:2157(A). See the Comments to R.S. 47:2157. The only substantive difference is that the time periods begin to run with the publication of notice, not with the date of the notice provided for in this Section.

§2276. Publication

The petitioner shall publish a monition contemporaneously with or following the sending of the notice calling on all tax sale parties whose interest the petitioner intends to be terminated to show cause within the time period provided in R.S. 47:2275 and this Section why grounds exist for a nullity under the provisions of this Chapter. The publication shall be given two times for immovable property, provided that the second publication for immovable property shall be published not earlier than seven days before and not later than the day before the sixtieth day following the first publication. The publication shall be sufficient if it is in the following form:

"NOTICE

[Name of Tax Sale Parties]

Pursuant to an order of the _____ District Court for the Parish of _____ in the matter of [TaxDeedHolder], Docket No. _____ [DocketNo], Div. _____, [Name of Court], Parish of _____, State of Louisiana, dated _____, it was ordered as follows:

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WHEREAS, [TaxDeedHolder], by act passed before [name of notary], recorded on [date of filing] [recordation information] of the official records of _____ Parish, Louisiana, purchased property [at tax sale] [from the {name of political subdivision}, Louisiana adjudicated to the political subdivision for unpaid property taxes or other matters];

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

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

The property affected by this monition is:

[Description of Property]

Improvements thereon bear Municipal No. _____ [PropertyAddress].

[Name and address of Clerk]

[Name and address of purchaser or attorney for purchaser.]"

Comment – 2008

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

§2277. Affidavit

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

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

"AFFIDAVIT BY [NAME OF AFFIANT]	UNITED STATES OF AMERICA STATE OF LOUISIANA PARISH OF _____

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

(1) [Name of petitioner]

(2) [Name of tax debtor]

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

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

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

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

[Legal description of property]

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

Name	Interest in property	Recordation information

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

Name	Address

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

Name	State	Address

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. 47:2275(B).

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

Name	Method of Sending	Results

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

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

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

Name of Interest Holder	Name of Instrument	Recordation Information

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.

WITNESSES: AFFIANT:

_____ _____
Printed Name: _____ Printed Name: _____

_____
Printed Name: _____

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

Comment – 2008

This Section is new. It changes the law. An affidavit is required to be filed in the monition proceeding. The affidavit is substantially similar to the affidavit provided in R.S. 47:2157(D), except that certain details of the monition proceeding are included. A safe harbor form of affidavit is provided.

§2278. Judgment

At the expiration of the applicable time period set forth in R.S. 47:2275 and 2276, the party obtaining the monition may apply to the court which rendered the monition to confirm the title to and full ownership in the property and homologate the sale. The court shall homologate and confirm the sale and the title to and full ownership in the property if the affidavit under R.S. 47:2277 has been filed and no opposition has been filed. If opposition is made to the homologation, the provisions regarding actions to annul under this Chapter shall apply.

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Comment – 2008

This Section is based on R.S. 13:4945. It requires a judgment after the expiration of the applicable time upon application of the petition if the affidavit under R.S. 47:2277 has been filed and no opposition has been filed. If an opposition has been filed, it is to be tried in accordance with the rules applicable to an action for nullity. See R.S. 47:2286 et seq.

§2279. Costs

When no opposition is made to the confirmation of the sale, the costs of the proceeding shall be paid by the party who prays for the monition.

Comment – 2008

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

§2280. Filing of the judgment; affidavit

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

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

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

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

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

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

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

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

Comments – 2008

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

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

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

PART VII. ACTIONS TO ANNUL

§2286. Actions to annul

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

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Comments – 2008

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

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

(c) This Section makes clear that all of these nullities are relative nullities since the nullities can be cured. A claim of a redemption nullity can be cured by the giving of notice and the passage of time under this Chapter. A claim of a payment nullity can be cured by acquisitive prescription. A violation of R.S. 47:2162 is cured by a sale to a good faith purchaser. An action for nullity under this Chapter is also subject to liberative prescription. See 47:2287. The action may be brought only by a tax sale party whose interest in the property has been adversely affected.

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

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

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

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

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

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

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

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

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

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

Comments – 2008

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

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

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

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

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

§2288. Acquisitive prescription

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

Comment – 2008

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

§2289. Effect of judgment

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

B. Other than as to the tax debtor, or a person claiming ownership through the tax debtor, a judgment for a redemption nullity reinstates the interest of the person claiming the nullity, to the extent the interest has not otherwise terminated

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pursuant to its terms or by operation of law. A judgment based on a redemption nullity as to the tax debtor, or a person claiming ownership through the tax debtor, reinstates all interests in the property otherwise terminated, released, canceled, or erased pursuant to this Chapter, to the extent the interest has not otherwise terminated pursuant to its terms or by operation of law.

Comments – 2008

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

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

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

§2290. Suspensive conditions to effectiveness of judgment

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

(a) All statutory impositions for which the sale or adjudication was made.

(b) All subsequent statutory impositions and all other governmental liens, including interest and penalties.

(c) Ten percent per annum interest on the statutory impositions.

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

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

(a) All statutory impositions forming the basis of the initial tax sale.

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(b) All subsequent statutory impositions have been paid and all governmental liens.

(c) All costs.

(d) A five percent penalty and twelve percent per annum on all statutory impositions.

(2) These amounts shall be paid to the tax collector, and the tax collector shall reimburse the tax sale purchaser or the purchaser or donee of adjudicated property to the extent the party has paid the purchase price and the subsequent statutory impositions or governmental liens; otherwise, the amounts shall be paid to the political subdivisions.

Comments – 2008

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

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

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

§2291. Trial; judgment; costs; improvements

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

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

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

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

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

(3) Within fifteen days after the rendering of the order under Paragraph (A)(1) of this Section, the party claiming costs shall submit proof of costs. Proof of costs may be made by affidavit or other competent evidence and may be contested by the party claiming the nullity. A contest of costs shall be filed within fifteen days after the filing of the proof of costs, and the contest shall be heard within forty-five days after the filing of the proof of costs.

(4) Within sixty days after the issuance of the order pursuant to Paragraph (A)(1) of this Section, the court shall render a judgment of nullity, and the judgment shall fix the costs allowed. This judgment shall be a final judgment subject to appeal.

C. After a judgment under Subsection B of this Section has been rendered, the governmental liens, other than statutory impositions paid if the nullity has been rendered on the basis of prior payment, and costs, shall be paid within one year from the date of the judgment. This one-year period shall be suspended while an appeal is pending. If the payment is not made within the period allowed, the judgment of nullity shall be vacated and the case dismissed with prejudice at the request of the person against whom the judgment of nullity was rendered.

D. After payment has been made, the party in whose favor judgment has been rendered may apply for an ex parte order stating that the required payments have been made. The application shall be verified and shall state, or an affidavit accompanying the application shall state, the amount and method of payment, that the payment was made to the party against whom the judgment has been rendered, and that a request for dismissal under Subsection C of this Section has not been filed.

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

Comments – 2008

(a) This Section is new. It sets for the procedure for setting the costs and finality of nullity judgment for appeal purposes. At the conclusion of the trial on the merits for the nullity, the judge is required to issue either a preliminary order that the tax sale will be declared a nullity or issue a final judgment dismissing the action with prejudice. The judgment dismissing the action is final for appeal purposes.

(b) If a preliminary order that the tax sale will be declared a nullity is issued, Subsection B defines what costs are required to be paid before a judgment becomes effective under the Louisiana Constitution and R.S. 47:2290 and provides the procedure by which the cost are determined.

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

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

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

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

§2292. Fruits

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

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Comment – 2008

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

Section 2. R.S. 13:4951, Subparts E, F, and G of Part II of Chapter 6 of Title 33, comprised of R.S. 33:2861 through 2892.9, Chapters 13A, 13B, and 13C of Title 33, comprised of R.S. 33:4720.11 through 4720.49, Part II of Chapter 4 of Subtitle III of Title 47, comprised of R.S. 47:2101 through 2114, and Parts I, II, and III of Chapter 5 of Subtitle III of Title 47, comprised of R.S. 47:2171 through 2194, 2221 through 2230, and 2251 through 2262, are hereby repealed in their entirety.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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