

Regular Session, 2010

HOUSE BILL NO. 1457

BY REPRESENTATIVE MONICA

TAX/AD VALOREM TAX: Relative to payments in lieu of ad valorem tax paid by a lessee to a political subdivision, industrial development board or certain public trust in relation to a securitized transaction

1 AN ACT

2 To amend and reenact R.S. 9:2347(M), 39:996 and 51:1160, and to enact R.S. 39:1002,
3 relative to payments in lieu of taxes, fees and charges paid by a lessee to a political
4 subdivision, industrial development board or certain public trust; to provide that
5 certain payments, fees and charges paid by a lessee to a political subdivision,
6 industrial development board or certain public trust under certain circumstances shall
7 be statutory impositions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:2347(M) is hereby amended and reenacted to read as follows:

10 §2347. Bonds of public trust

11 * * *

12 M. The property of any public trust, having as its beneficiary the parish of
13 Jefferson, which is authorized under its trust indenture to engage in or issue bonds
14 to finance projects for substantially all of the public purposes set forth in R.S.
15 9:2341(B)(1), acquired or held for one or more of said purposes, is hereby declared
16 to be public property used for essential public and governmental purposes.
17 Accordingly, such public trust, and all of its properties at any time owned by it and
18 the income therefrom and all bonds issued by it and the income therefrom, shall be
19 exempt from all taxes of the parish or municipality, the state, or any political

1 subdivision thereof or any other taxing body, provided, however, that such public
 2 trust may require the lessee of each of the projects of the public trust to pay annually
 3 to parish or municipal taxing authorities or to any other taxing body, through the
 4 normal collecting agency, a sum in lieu of ad valorem taxes to compensate such
 5 authorities for any services rendered by them to such projects, which sum shall not
 6 be in excess of the ad valorem taxes such lessee would have been obligated to pay
 7 to such authorities had it been the owner of such project during the period for which
 8 such payment is made. Such payments to be made in lieu of taxes shall constitute
 9 statutory impositions within the meaning of R.S. 47:2128. No provision of this
 10 Subsection shall become effective until approved by resolution of the Jefferson
 11 Parish Council.

12 Section 2. R.S. 39:996 is hereby amended and reenacted and R.S. 39:1002 is hereby
 13 enacted to read as follows:

14 §996. Lease, sublease or sale of project prior to issuance of bonds; terms and
 15 conditions

16 Prior to the issuance of any bonds under this Part, the municipality shall
 17 lease, sublease or agree to sell the project to a lessee, sublessee or purchaser under
 18 an agreement conditioned upon completion of the project and providing for payment
 19 to the municipality of such rentals or installment payments as will be sufficient (a)
 20 to pay the principal of and interest on the bond issued to finance the project, (b) build
 21 up and maintain any reserve deemed by the governing body to be advisable in
 22 connection therewith, and (c) unless the contract obligates the lessee, sublessee or
 23 purchaser to pay for the maintenance and insurance of the project, to pay the cost of
 24 maintaining the project in good repair and keeping it properly insured. Such lease,
 25 sublease or agreement of sale shall be made upon such other terms and conditions
 26 and for the time which may be determined by the municipality and may contain
 27 provisions authorizing the purchase of the entire leased project or any portion thereof
 28 by the lessee or its assignee, where applicable, after all bonds issued thereunder have
 29 been paid in full, for such consideration and upon such terms and conditions as the

1 municipality may determine. If title to the project is in the municipality, the
 2 municipal corporation may specifically require as a condition under the lease
 3 agreement, that the lessee of each of the projects of said municipal authority shall
 4 pay annually to the appropriate taxing authority, through the normal collecting
 5 agency, a sum in lieu of ad valorem taxes to compensate such authorities for any
 6 services rendered by them to such projects which sum shall not be in excess of the
 7 ad valorem taxes such lessee would have been obligated to pay to such authorities
 8 had it been the owner of such project during the period for which such payment is
 9 made. Such payments to be made in lieu of taxes shall constitute statutory
 10 impositions within the meaning of R.S. 47:2128.

11 * * *

12 1002. Payments Constitute Statutory Impositions

13 Payments in lieu of ad valorem tax, fees and other charges to be paid by a
 14 lessee to a political subdivision, industrial development board or a public trust whose
 15 property is exempt from ad valorem taxation pursuant to R.S. 9:2347(M), 39:996,
 16 51:1160 or any other provision of law authorizing fees and charges to be imposed on
 17 a lessee in relation to a securitized transaction, up to the amount that would be due
 18 if the property were owned by a private entity and subject to ad valorem tax, shall
 19 constitute statutory impositions within the meaning of R.S. 47:2128. If that the local
 20 tax collector is notified in writing of any required payment in lieu of ad valorem tax
 21 or other fee or charge, the tax collector shall collect such payments. Additionally,
 22 upon notice in writing from the political subdivision, industrial development board,
 23 or public trust whose property is exempt from ad valorem taxation that fees and
 24 charges due such entity, when added to the payment in lieu of tax, collectively do not
 25 exceed the amount of the ad valorem tax that would be due if the property were
 26 owned by a private entity, and such amounts have not been paid, the tax collector
 27 shall collect the monies owed and enforce payment in the same manner as for ad
 28 valorem taxes. Any obligations of an industrial development board or political
 29 subdivision, if any, secured by a pledge of the payment of such amounts shall

1 automatically be subject to a tax equivalent lien in the same manner as obligations
2 payable from ad valorem taxes.

3 Section 3. R.S. 51:1160 is hereby amended and reenacted to read as follows:

4 §1160. Exemption from taxation; classification of bonds

5 The corporation is hereby declared to be performing a public function on
6 behalf of the municipality or parish with respect to which the corporation is
7 organized and to be a public instrumentality of such municipality or parish.
8 Accordingly, the corporation and all properties at any time owned by it and the
9 income therefrom and all bonds issued by it and the income therefrom shall be
10 exempt from all taxation in the state of Louisiana; provided, however, that the
11 corporation may require the lessee of each of the projects of the corporation to pay
12 annually to parish or municipal taxing authorities, through the normal collecting
13 agency, a sum in lieu of ad valorem taxes to compensate such authorities for any
14 services rendered by them to such projects which sum shall not be in excess of the
15 ad valorem taxes such lessee would have been obligated to pay to such authorities
16 had it been the owner of such project during the period for which such payment is
17 made. Such payments to be made in lieu of taxes shall constitute statutory
18 impositions within the meaning of R.S. 47:2128. Also for the purposes of R.S.
19 51:704(2) and any amendment thereto or substitution therefor, bonds issued by the
20 corporation shall be determined to be securities issued by a public instrumentality
21 of a political subdivision of the state of Louisiana.

22 Section 4. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

1 DIGEST

2 The digest printed below was prepared by House Legislative Services. It constitutes no part
3 of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute
4 part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

5 Monica HB No. 1457

6 **Abstract:** Deems certain payments in lieu of tax, fees and charges paid by a lessee to a
7 political subdivision, industrial board and certain public trusts in relation to a
8 securitized transaction to be statutory impositions

9 Present law authorizes political subdivisions and industrial development boards and public
10 trusts whose property is exempt from ad valorem taxation to require lessees of certain
11 projects involving securitized transactions to make payments to the local taxing authorities
12 in lieu of any ad valorem taxes which would be owing on the leased property if it were
13 privately owned, as well as pay other fees and charges related to such transactions..

14 Proposed law retains present law and deems payments made in lieu of taxes, and the fees and
15 other charges imposed on a lessee in relation to a securitized transaction, to the extent that
16 they do not exceed the amount of ad valorem taxes which would be owing on the property
17 if it were privately owned, to be statutory impositions. Present law provides that the
18 payment of statutory impositions is enforceable in the manner as ad valorem tax.

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

20 (Amends R.S. 9:2347(M), 39:990 and 51:1160; Adds R.S. 39:1002)