

Concept Paper

A CUSTOMER FRIENDLY APPROACH TO PAYMENT OF PROPERTY TAXES

Submitted by Total Community Action, Inc.

TCA is concerned that, with the pervasive and long-standing poverty endemic to the City of New Orleans and in the wake of Hurricane Katrina, a significant number of property owners, especially low and moderate income citizens, will not be able to pay the real estate tax using a onetime cash payment. It is, of course, obvious that the City is in dire need of the tax revenue generated by property taxes. It is believed, however, that a more expansive approach to tax collection that offers more choices to the taxpayer will result in a larger collection of revenue, especially in these times when taxpayers have multiple needs for the limited funds in their possession and insurance companies and federal and state governmental agencies have not completed the financial response to the claims generated by the Hurricane. Municipalities and governing bodies that have offered a more "customer friendly approach to tax collection have, at minimum, during normal times collected the same percentage of revenue as was collected under a onetime payment approach. Given the unusual nature of these times, it is believed that a "customer friendly approach will generate more revenue than the onetime approach. Presented below is the analysis of the issues concerning payment of property taxes.

The research approach that we have taken is to look (1) at state legislation and city provisions existing prior to Katrina; (2) at state legislation passed subsequent to Katrina; (3) at the present method utilized by the City of New Orleans for the collection of taxes; (4) at payment methods used by other Louisiana parishes; (5) at payment methods used by other states; and (6) at the recommended best practices by professional associations. The outcome of the analysis was to find alternatives for the payment and collection of property taxes that are "customer friendly" and that comport with the desire to facilitate the cleaning up and rebuilding by property owners. The analysis is divided into six sections that examine each of the approaches in order. The first section looks at state and local laws to determine any impediments or obstacles to the development of a customer friendly approach to property tax collection.

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1. INFORMATION ON THE CITY OF NEW ORLEANS' AUTHORITY RELATIVE TO THE CONSTRAINTS OF PAYMENT METHODS TO COLLECT PROPERTY TAXES.

Constraints on Installment Payments:

We will first examine state and local laws to determine whether there are any limits on the ability to pay property taxes in methods other than a one-time payment. There appears to be no constraints for paying delinquent taxes in installments. In fact, La. R.S. 47:2106(A) specifically authorizes delinquent taxes to be paid in installments.

State law provides that Orleans Parish property taxes are collected beginning January 1st of the taxing year and become delinquent on February 1st of the taxing year. If taxes are not paid by December 31st of the taxing year, the property shall proceed to a tax sale. La. R.S. 47:1991.

The ad valorem tax scheme by parishes other than Orleans sets forth a December 31 end date, "resulting in drastic variations in the amount of time taxpayers have to raise the money to pay the challenged tax. For example, Orleans Parish collects its taxes in advance, at the beginning of the calendar year, allowing its residents a full year to collect the funds for the payment of an ad valorem tax. Jefferson Parish, on the other hand, assesses its ad valorem taxes in arrears, forcing relatively quick payment by its residents under the December 31 deadline." 47 Loy. L. Rev. 1539, 1547-1548 (Winter 2001).

State law provides that interest on all ad valorem taxes which are delinquent shall bear interest from date of delinquency until paid, at the rate of one percent per month, La. R.S. 47:2101, and state law also provides that property taxes shall bear ten percent per annum delinquent penalty from the date of delinquency until paid, La. R.S. 47:1991.

State law further provides that any delinquent ad valorem tax may be paid in installments, and interest at the rate fixed by law shall be collected on each installment. La. R.S. 47:2106(A). Therefore, there appears to be no constraints for paying delinquent taxes in installments.

Constraints on Methods of Payments:

There are, therefore, no laws constraining the methods of payments. However, in Orleans Parish, payment methods are as follows: One time online payments can be made through a checking account by entering account and routing number information; however, no credit card payments can be accepted online. There is no extra charge for web payments. Tax bills can also be paid on a one time basis in person or by mailing payments to the City. There appears to be no formal written policy allowing for partial payments. However, the web site for the City states that such payments should be made in person and cannot be made using the online payment method. In practice, it appears that such payments are allowed on an individual, case by case, basis at the discretion of the City officials responsible for tax collection.

Constraints on Deferment of Payments:

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La. R.S. 47:2106 provides that whenever property is damaged or destroyed by overflow, general conflagration, general destruction of crops or public calamity and/or during a disaster or emergency declared by the governor, the Orleans Parish taxpayer may file an application for deferment of payment of taxes. The taxes postponed shall be divided into ten equal parts, and one part shall be assessed on the immovable property affected for each year for ten subsequent years or until the whole of the postponed tax is paid. The statute provides that the installments shall bear interest at the rate of (6%) six percent per annum from the thirty-first day of December of the year in which they were originally due until paid.

La. R.S. 47:1997 regarding the payment of taxes, and sale of property for delinquent taxes for Orleans Parish provides:

- A. Beginning with the year 1963, on or before the fifteenth day of October of each year, copies of the rolls showing the final assessment of real and personal property shall be sent to the city and state tax collector for the parish of Orleans, the state comptroller, the recorder of mortgages for the parish of Orleans and the director of finance of the city of New Orleans. The collection of taxes shall begin on the first day of January of the year for which such taxes are levied. Said taxes may be paid in two equal installments payable, respectively, in January and May of each year beginning with the year 1964; provided that the taxpayer shall pay one-half of said taxes during the month of January. Unless the taxpayer during the month of January shall pay all real estate, personal, and public utilities taxes on property owned by him in the parish of Orleans or one-half thereof, as hereinabove provided, the entire amount of such taxes shall become delinquent on the first day of February and said taxes shall bear ten per cent per annum delinquent penalty from the date of delinquency until paid. If a second installment is elected as hereinabove provided it shall be delinquent on the last day of May and shall bear the ten per cent per annum delinquent penalty from the date of delinquency until paid. On the thirty-first day of December of each year, commencing with December 31, 1963, the director of finance of the city of New Orleans, under such regulations as may be prescribed by the city council, shall forthwith proceed to advertise and sell for delinquent taxes the real estate and public utilities upon which taxes are delinquent and shall also proceed to enforce the collection of delinquent personal property taxes. The proceedings by the director of finance for the enforcement of the payment of delinquent real estate, personal property, and public utilities taxes shall be in the manner and form as now provided by law.

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- B. Beginning with the year 1971, on or before the fifteenth day of October of each year, copies of the rolls showing the final assessment of real and personal property shall be sent to the city and state tax collector for the parish of Orleans, the state comptroller, the recorder of mortgages for the parish of Orleans and the director of finance for the city of New Orleans. ***The collection of taxes shall begin on the first day of January*** of the year 1972, and for each year thereafter, for which such taxes are levied. Beginning with the year 1972, ***the entire amount of such taxes shall become delinquent on the first day of February*** and said taxes shall bear ten percent per annum delinquent penalty from the date of delinquency until paid. On the thirty-first day of December of each year, ***commencing with December 31, 1972***, the director of finance of the city of New Orleans, under such regulations as may be prescribed by the city council, ***shall forthwith proceed to advertise and sell for delinquent taxes the real estate*** and public utilities upon which taxes are delinquent and shall also proceed to enforce the collection of delinquent personal property taxes. The proceedings by the director of finance for the enforcement of the payment of delinquent real estate, personal property, and public utilities taxes shall be in the manner and form as now provided by law.
- C. For tax year 2006 only, copies of the rolls showing the final assessment of real and personal property shall be sent to the city and state tax collector for the parish of Orleans, the state comptroller, the recorder of mortgages for the parish of Orleans, and the director of finance for the city of New Orleans on or before January 30, 2006. The collection of taxes shall begin as soon thereafter as practicable and the entire amount of such taxes shall be paid on or before the thirtieth day of April 2006 and said taxes shall bear ten percent per annum delinquent penalty thereafter until paid.

In Orleans Parish, ad valorem taxes are assessed the year prior to the taxing year. The taxes are collected beginning January 1st of the taxing year and become delinquent on February 1st of the taxing year. If taxes are not paid by December 31st of the taxing year, the property shall proceed to a tax sale. *Cochrane v. Louisiana Tax Com'n*, 2004-1671, p. 5 (La.App. 4 Cir.,2005) 905 So.2d 353, 357; *Lindy Development, L.L.C. v. Degan* 2003-1078, p. 6 (La.App. 4 Cir. 4/21/04), 874 So.2d 252, 256.

Thus, pursuant to La. R.S. 47:1997, it appears that New Orleans uses an installment method. That is, the taxes are collected on January 1, on February 1 the taxes become delinquent, and if the taxes are not paid by December 31st of the taxing year, the property shall then proceed to a tax sale. Thus, New Orleans allows for 10 months of payments before proceeding to the tax sale. However, interest and penalties continue to accrue during this time.

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As discussed further herein, other parishes provide that the tax is delinquent after December 31st of each year. If you pay your Property tax after December 31st, you will have to pay interest at the rate of one (1) percent per month. If you do not pay your Property tax by March you will receive a Certified Notice, then your property will be sold by May.

La. R.S. 33:2745 provides that real estate taxes are due and payable after the levy, or as soon thereafter as the tax bills can be prepared. However, La. R.S. 47:2106 further provides that any delinquent ad valorem tax due to the state or to any political subdivisions thereof may be paid to such taxing authority in installments.

A municipal corporation shall, once every year, between the first of May and thirtieth of June, and not oftener, lay an equal and uniform tax upon all real and personal property within its corporate limits, as prescribed by and under the limitations imposed by law for the current year. This tax shall be due and payable at the proper office of the municipal government immediately after the levy, or as soon thereafter as the tax bills can be prepared.

La. R.S. 47:2106(A) regarding deferment of tax payments provides:

Any delinquent ad valorem tax due to the state or to any political subdivisions thereof may be paid to such 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 such installment, and no further interest shall thereafter be collected on the amount of such installment payment, provided nothing contained in this Section shall prevent the sale of the property for delinquent taxes, as provided by law. Where installments have been collected on any tax, the tax sale shall be for the amount of the unpaid balance of the tax.

Our review of state and local laws has determined that they permit installment payments, and the City therefore should not be constrained to onetime cash payments. Prior to Hurricane Katrina, the State Legislature enacted new laws addressing the payment of property taxes. We will examine those laws in the next section of the analysis.

2. RECENT LEGISLATION FOLLOWING HURRICANE KATRINA

Following Hurricane Katrina, the 2005 Special Session of the Legislature passed several Acts designed to provide provides relief to property owners with respect to payment of ad valorem taxes, which are summarized below.

Deferment of Tax Payments: Act 28 amended and reenacted R.S. 47:2106 relative to the deferment

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of ad valorem tax payments. The Act became effective November 29, 2005. The statute provides that whenever lands or other property, including buildings, structures, or personal property are damaged or destroyed by overflow, general conflagration, general destruction of crops or public calamity and/or during a disaster or emergency declared by the governor, the Orleans Parish taxpayer may file an application for deferment of payment of taxes.

To avail himself of the benefits of the statute, the taxpayer must file an application that his property has been damaged, giving the description of his property assessed, and that by reason thereof, the forcible collection of the taxes of the year during which injury occurred, or the preceding year, would be oppressive, and that he is unable to pay the same without a sacrifice of his property. A statement of the right of the owner to have his taxes deferred must be included with the tax bill mailed to the taxpayer if such bill is mailed after November 29, 2005, the effective date of the Act.

The property owner wishing to postpone payment of taxes shall make a sworn statement in triplicate no later than December 31st of the year in which the damage or destruction occurred or thirty days after the tax bill has been mailed, whichever is later.

The filing shall operate as a first lien and privilege, and the statement shall be preserved in book form and duly indexed. The taxes thus postponed shall be divided into ten equal parts, and one part shall be assessed on the immovable property affected for each year for ten subsequent years or until the whole of the postponed tax is paid. The statute provides that the installments shall bear interest at the rate of (6%) six percent per annum from the thirty-first day of December of the year in which they were originally due until paid. The statements must be filed with the following officials: Parish Sheriff, Louisiana Legislative Auditor, Records of Mortgages of the Parish where the property is located. Upon the filing of the affidavit the owner shall be relieved from the payment of taxes for the year in which he claims postponement.

In its entirety, La. R.S. 47:2106 provides:

- A. Any delinquent ad valorem tax due to the state or to any political subdivisions thereof may be paid to such 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 such installment, and no further interest shall thereafter be collected on the amount of such installment payment, provided nothing contained in this Section shall prevent the sale of the property for delinquent taxes, as provided by law. Where installments 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

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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 are 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 taxpayer 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 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 taxpayer if such tax bill is mailed after

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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 the thirty-first day of December 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.
- 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.

Deadlines for Assessment Lists, Filing of Tax Rolls and Payment of Taxes: Furthermore, Act No. 51 amended and reenacted R.S. 47:1992(F)(1) and (G), 2101(A)(2) and (3), 2171(A)(introductory paragraph), 2180(A)(1)(a), and 2180.1(A) and enacts R.S. 47:1997(C), to

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change time periods for public inspection of assessment rolls; to change assessment deadlines; to change ad valorem tax collection procedures and deadlines; and to provide for related matters.

The legislation extends the deadline for public inspection and certification of the tax rolls in Orleans Parish for tax year 2006. For Orleans Parish the assessment lists shall be exposed daily except Saturday, Sunday, and legal holidays for a period of fifteen days. On or before the tenth day after the completion of public inspections, the assessors shall certify their rolls to the board of review. For Orleans Parish tax year 2006 only, the rolls showing the final assessment shall be sent to the city and state tax collector for the Parish of Orleans, the state comptroller, the recorder of mortgages, and the Director of Finance for the City of New Orleans on or before January 30, 2006 and such taxes shall be paid no later than April 30, 2006 and shall bear 10% interest per annum delinquent penalty thereafter until paid.

For all Parishes except Orleans, Act No. 51 suspends and waives for tax year 2005 only, the August 15th to September 15th inspection period.

Act No. 66 provides that tax rolls for 2005 and tax rolls for 2006 for Orleans shall be completed and filed with the Tax Commission on or before March 31, 2006. Nothing in the legislation prohibits the completion and filing of tax rolls prior to March 31, 2006. Act 66 became effective December 6, 2005.

Act No. 66 further provides that for tax year 2005, the deadline for payment of ad valorem taxes is extended and such taxes shall be paid no later than 45 days after certification and approval of the tax rolls by the Louisiana Tax Commission or December 31, 2005 whichever date is later.

Act No. 51 provides that there shall be no forced collection of ad valorem taxes before 30 days after the deadline for payment of taxes.

Interest on delinquent taxes shall not begin until 30 days after the deadline for the payment of taxes.

The statutes providing for notice of delinquency are amended to require that the notice be sent the day of the deadline for the payment of taxes on movable property (47:2171), the second day after the deadline for payment of taxes on immovable property (47:2180), and that notice to mortgagee be sent on the second day after the deadline for the payment of taxes (47:2180.1).

Reassessment/ Pro-rating of taxes: Furthermore, Act 66 amended and reenacted R.S. 47:1993(D) and 2101(A) (1) and enacted R.S. 47:1978.1.

The legislation provides that if lands or other property, including building, structures, or personal property are destroyed, uninhabitable, or nonoperational due to a disaster or emergency declared by the Governor, a majority of the elected taxing authorities of the parish where such property is situated may vote to pro-rate ad valorem taxes for tax year 2005.

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All parishes for which the Louisiana Tax Commission has already certified and approved or conditionally certified or approved the 2005 tax rolls prior to the effective date of the Act as well as the parishes of Jefferson, Orleans, Plaquemines and St. Bernard are specifically excluded in the Act and the elected taxing authorities in those parishes do not have the option to pro-rate taxes.

In those parishes damaged property will be reassessed in Reassessment / Pro-Rating of Taxes accordance with procedures provided for in the Act and more specifically discussed below. This Act became effective December 6, 2005.

Proration Procedures: Within ten days of December 6, 2005, which is the initial effective date of this Act, the Tax Commission has to receive notice in writing from a majority of the elected taxing authorities in such parish that they have adopted a resolution declaring their intention to consider having the lands or property located within the parish assessed and collected for that year by proration pursuant to Subsection C of the Act.

Upon receipt of such notice from a majority of the elected taxing authorities within the parish, the Tax Commission shall notify the assessor and collector of the parish.

Once the elected taxing authorities within the parish have timely adopted the resolution and provided notice to the Tax Commission of their intention to consider prorating of taxes, they may adopt another resolution to request an order from the Tax Commission that the lands or property located within the parish be assessed and collected for that year by proration pursuant to Subsection C of this Act, but only after the following:

- 1) The resolution must be adopted by a vote of two-thirds of the members of the elected taxing authority after a public meeting conducted in accordance with the open meetings law.
- 2) In addition to any other requirements of the open meetings law, special public notice of the time, place, and subject matter of such meeting shall be published on two separate days within fifteen days preceding the meeting in the official journal of the taxing authority and another newspaper with a larger distribution than that of the official journal, if one exists in the parish. The requirements as to form and manner of the advertisement are set forth in the Act.

If the Tax Commission receives notice from a majority of the elected taxing authorities in a parish requesting that the lands or property located within the parish be assessed and collected for that year by proration, and that the notice Proration Procedure of each such elected tax authority was received within thirty days of the Tax Commission's receipt of the first notice of intent, then the Tax Commission shall order the assessor and collector of such parish to proceed to assess and collect all

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ad valorem property taxes in the parish by proration.

Proration shall be calculated as follows: the ad valorem taxes resulting from the assessed valuation for the year in which the damage or destruction occurred shall be multiplied by a factor to determine the ad valorem taxes owed for that year. The factor shall be the number of months during the tax year that the property was habitable or operational, divided by twelve. For purposes of this calculation, a fraction of a month is to be considered a month.

If the provisions of Subsection C are applicable, the ad valorem property tax bill provided to each taxpayer shall include the following statement: "If the property set forth herein was severely damaged or destroyed, rendering the property uninhabitable for a portion of the year for which these taxes are due, you MAY be entitled to have your tax bill reduced. Contact the tax collector for details on obtaining a reduction.

If the provisions of Subsection C are applicable, any property owner seeking to have his ad valorem tax bill prorated shall notify the assessor in writing, providing a request to have his property tax bill prorated, including a description of the damage and the number of whole months in which the property was uninhabitable due to the damage during the tax year at issue.

Re-Assessment Requirements and Procedures: Except in those parishes which have voted to have taxes prorated or are excluded in the Act, the assessor is to reassess all lands or property, including buildings, structures, or personal property that are destroyed, uninhabitable, or non-operational due to a disaster or emergency declared by the governor for tax year 2005 by the following procedures:

The assessor shall assess lands or property for the year in which damage has occurred at the percentage of fair market value provided in the Constitution of Louisiana by taking into consideration all the damages to the lands or other property and the depreciation of the value of such land or other property caused by the disaster or emergency. Notwithstanding other provisions of law to the contrary, but except as provided in Subsection D of the Act, the assessor shall make these assessments whether the time fixed by law for filing assessment rolls has elapsed or not.

Procedure to be followed if damage occurs before the rolls are certified to the Board of Review: For purposes of Subsection B and R.S. 47:1978, the assessments of damaged property shall be reflected on the general assessment roll if at the time lands and other property are damaged or destroyed during a disaster or emergency declared by the governor, the general assessment roll has not been certified by the assessor to the local board of review.

The procedures for public inspection of the general assessment rolls, review of assessments by the board of review, and certification of the assessment rolls to the Louisiana Tax commission shall be followed. The rolls shall be open for public inspection for a period of fifteen days, and the assessor shall advertise such public exposure dates and dates for board of review as provided for by existing law.

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Procedure to be followed if damage occurs after tax rolls are certified to Board of Review: If at the time lands and other property are damaged or destroyed during a disaster or emergency declared by the governor the general assessment rolls have already been certified by the assessor to the local board of review, the assessor shall prepare a supplemental roll of land or property damaged or destroyed as the result of the events described, which rolls shall be filed in the same manner as provided for general assessment rolls, and such assessments shall be subject to the same rights as to contest as to assessments generally.

Procedure for change orders after tax rolls certified by Tax Commission: If after the filing of the assessment roll with the Louisiana Tax Commission, the assessor request a change order as a result of the events described in the Act, such request for change order shall be signed by the assessor or his deputy and shall contain a declaration that the property owner agrees to the change in the assessment and that the property waives any right to further contest the correctness of the assessment. In the event the request for change order is not agreed upon by the assessor and the property owner, the assessor shall mail to the property owner the assessor's determination of the assessed value of the property. If the property owner is dissatisfied with the assessor's determination of assessed value, the property owner shall have fifteen days from the mailing of the notification by the assessor of the determination of assessed value to contest the assessment to the Louisiana Tax Commission.

All decisions by the Louisiana Tax Commission are final unless appealed to the district court within fifteen days from the mailing of the decision of the Louisiana Tax Commission. If the assessor requests change orders in lieu of an original assessment roll or supplemental roll under Subsection B of this Act, the assessor shall submit an amended grand recap reflecting the changes in assessed values requested in such change orders.

The assessment provided for in R.S. 47:1978.1(B) and R.S. 47:1978 shall not be considered an implementation of the reappraisal and valuation provisions of Article VII, Section 18(F) of the Constitution of Louisiana, nor shall such assessment result in the adjustment of ad valorem tax millages pursuant to Article VII, Section 23 of Constitution of Louisiana.

Homestead Exemption: HB 34 proposes a constitutional amendment of Article VII, Section 18(G) & 20(A) (10) to allow the continuation of the homestead exemption and special assessment level freeze for any qualifying homestead that is damaged or destroyed during a disaster or emergency declared by the governor and whose owner is unable to occupy the homestead on or before December 31st of a calendar year due to such damage or destruction. Owners must file an affidavit annually with their assessor, which states their intent to return and reoccupy the homestead within five years from December 31st of the year following the disaster. Owners may receive only one homestead exemption. This Act shall become effective April 29, 2006 if approved by voters.

The legislation passed following the hurricane, provides for the relaxation of the provisions existing

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prior to Hurricane Katrina such that payments are to be made by April 30th instead of January 30th and the payment of taxes may be deferred. Therefore, this legislation further facilitates the ability of the City to provide for alternative tax collection methods. The legislation also enhances the ability of the tax payer to challenge assessments and freezes the Homestead Exemption at pre hurricane levels. We will now look at the payment methods presently utilized by the City to determine if it has made it easier for the tax payer to use the recently enacted legislation and the ability existing prior to the Hurricane to provide for installment payments.

3. DESCRIPTION OF PAYMENT METHOD NOW USED BY THE PARISH OF ORLEANS.

From what we were able to determine, the City's method for collecting property taxes has not changed subsequent to the Hurricane and to the recent legislation. Property taxes in Orleans Parish are collected at the beginning of each year, every other parish collects its taxes at the end of the year.

In Orleans Parish, ad valorem taxes are assessed the year prior to the taxing year. The taxes are collected beginning January 1st of the taxing year and become delinquent on February 1st of the taxing year. If taxes are not paid by December 31st of the taxing year, the property shall proceed to a tax sale. *Cochrane v. Louisiana Tax Com'n*, 2004-1671, p. 5 (La.App. 4 Cir.,2005) 905 So.2d 353, 357; *Lindy Development, L.L.C. v. Degan* 2003-1078, p. 6 (La.App. 4 Cir. 4/21/04), 874 So.2d 252, 256.

As part of Mayor C. Ray Nagin's push to make government more user-friendly, real estate bills are available online at www.cityofno.com/treasury. Online payments can be made through a checking account by entering account and routing number information; however, no credit card payments can be accepted online. There is no extra charge for web payments.

The website page for the City of New Orleans Bureau of Treasury states that partial payments should be made in person and cannot be made using the online payment method. Thus, the website implies that partial payments can be made.

To pay on the website, taxpayers will need tax bill numbers from a previous year, which are available on the City's property data base at <http://hi.mayorofno.com/servlet/user/PropertySearch> or by calling 658-1702. Properties can be searched by address or owner's name. For those who choose to pay online, it will take three to five business days for transactions to be posted to accounts.

Tax bills can still be paid using the envelope enclosed in the mailing or by forwarding the payment to P.O. Box 60047, New Orleans, LA 70160.

Per the City's website: Interest accrues at 1% per month on all delinquent taxes. In addition, current year penalties accrue at 3% on February 1st, 10% on March 1st and 15% on May 1st.

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City Code Sec. 150-47 regarding penalties and interest provides:

- (a) A delinquent tax incurs a penalty of three percent of the amount of the tax on the day such tax becomes delinquent.
- (b) A delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid in accordance with R.S. 47-2101.(M.C.S., Ord. No. 18,637, § 1, 3-5-98).¹

City Code Sec. 150-48 regarding additional penalty for collection costs provides:

All delinquent taxes for prior years, and taxes that remain delinquent on April 1 of the year in which they become delinquent, incur an additional penalty to defray costs of collection if the taxing unit has referred the collection of the delinquent taxes, penalty and interest to an attorney or collection agent. The amount of the additional penalty shall be 30 percent of the amount of taxes, penalty, and interest due. (M.C.S., Ord. No. 18,637, § 1, 3-5-98)

The penalties of 3% and 30%, respectively, stated in the City Code appear to be in addition to the penalties stated in La. RS. 47:1997 which states that taxes shall bear a 10% per annum delinquent penalty from the date of delinquency until paid.

However, given the hardships visited upon tax payers by Hurricane Katrina, the City should act expeditiously and aggressively to create a customer friendly method for tax payment that might help to facilitate the clean-up and rebuilding of the City. In Section 4, payment methods used by other Louisiana parishes will be examined to determine if there are lessons that the City can learn relative to alternative methods of tax collection from these parishes.

4. PAYMENT METHODS USED BY OTHER LOUISIANA PARISHES.

The Parishes of Lafayette, Rapides, Ouachita, Caddo, and East Baton Rouge were examined to determine the methods used therein for the payment of property taxes. These Parishes all include a substantial population base in comparison to the remaining Louisiana Parishes.

Lafayette Parish

¹ La. R.S. 47:2101(3) provides in part that “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, of each and every year and shall bear interest from that date until paid, at the rate of one percent per month or any part thereof.”

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No partial payments are accepted. Any partial payment is returned to the tax payer.

Rapides Parish (Alexandria)

No partial payments are accepted. Property taxes are delinquent after December 31st of each year. If you pay your Property tax after December 31st, you will have to pay interest at the rate of one (1) percent per month or any portion thereof. That means if you pay one day or thirty days late you will have to pay 1 percent interest for that month. If you do not pay your Property tax by March you should receive a Certified Notice, then around April 1st, and again around May 1st. Your property will be advertised in the Alexandria Daily Town Talk that your tax has not been paid, and will be offered for sale for the delinquent tax. This sale is usually held the first Wednesday in May.

Ouachita Parish (Monroe)

No partial payments are accepted.

Caddo Parish (Shreveport)

No partial payments are accepted. Property taxes are delinquent after December 31st of each year. If you pay your Property tax after December 31st, you will have to pay interest at the rate of one (1) percent per month or any portion thereof. If you do not pay your Property tax by March you should receive a Certified Notice, then around April 1st, and again around May 1st. Your property will be advertised that your tax has not been paid, and will be offered for sale for the delinquent tax. This sale is usually held in May.

East Baton Rouge Parish

All property taxes payments are due by December 31, 2005. Payments received after that date are considered delinquent, and interest is due in the amount of 1% of the tax for each month or portion of a month that the payment is late. If you have been sent a delinquent tax notice, certain costs are also due in addition to the interest charged for late payments.

Other Louisiana Parishes that were examined do not provide any greater flexibility than Orleans Parish. In the next section, we will therefore look at surrounding states to determine if they provide for greater flexibility in the payment of property taxes.

5. PAYMENT METHODS USED BY OTHER STATES:

In looking at the payment methods of other states, Texas, Mississippi and Arkansas will be examined. These states appear to be more "customer friendly" than Louisiana and should provide some ideas for alternative methods that can be adopted by the City.

Texas

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Taxing units usually mail their tax bills in October. In most cases, the deadline for paying your property taxes is January 31. Taxes that remain unpaid on February 1 are considered delinquent. Penalty and interest charges are added to the original amount.

Payment options that may be available:

- discounts, if you pay your taxes early;
- split payment of taxes, allowing you to pay half your taxes by November 30 and the remainder by June 30 without any penalty;
- partial payment of your taxes;
- installment payments for homestead taxes for persons over 65 years of age or disabled;
- payment by credit card, with an additional fee of up to 5 percent;
- escrow agreements for a special year-round account; and
- work contracts, in lieu of paying taxes, for certain taxpayers doing certain duties.

You may defer some of your homestead taxes if you choose. The taxes that may be deferred are those for any value exceeding 105 percent of your home's appraised value, plus any new improvements, from the preceding tax year. You must file a deferral application with the appraisal district before the taxes become delinquent, and you must pay the taxes based on 105 percent of the home's value.

If you are qualified for the over-65 or disabled homestead exemptions, you may pay your current taxes on your home in four installments. You must pay at least one-fourth of your taxes before the February 1 delinquency date. The remaining payments are due before April 1, June 1 and August 1, without any penalty or interest. If you miss an installment payment, you will face a 12 percent penalty and also pay interest at 1 percent for each month of delinquency. You must indicate on your first payment that you are paying your home taxes in installments. Installment payments apply to all taxing units on the tax bill.

Persons qualifying for over-65 or disabled homeowner exemptions may defer payment of their taxes.

Homeowners whose residences are damaged in a disaster and are located in a designated disaster area also may pay their taxes in four installments, in the same months as over-65 or disabled homeowners do.

If you do not pay your taxes:

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- You will have penalty and interest charges added to your taxes. Regular penalty charges may be as high as 12 percent, depending on how long the tax remains unpaid. Interest will be charged at the rate of 1 percent per month, with no maximum. Private attorneys hired by taxing units to collect delinquent accounts can charge an additional penalty to cover their fees.
- You will receive delinquent tax notices. The tax collector will send you at least one notice that your taxes are delinquent. They often send additional notices and warnings.

You may have the option to set up an installment plan. Some tax collectors will allow you to pay delinquent taxes in installments for up to 36 months. They are not required to offer this option, however. Before signing an installment agreement, you should know that the law considers your signature an "irrevocable admission" that you owe all the taxes covered by the agreement.

You may be sued. The tax collector's last resort is to take a delinquent taxpayer to court. Court costs will be added to the delinquent tax bill. Each person who owns taxable property on January 1 is liable for all taxes due on the property for that year. A person who owned taxable property on January 1 can be sued for delinquent taxes even if the property has been sold or transferred since then.

You may face problems in selling your property. Each taxing unit holds a tax lien on each item of taxable property. A tax lien automatically attaches to property on January 1 each year to secure payment of all taxes. This tax lien gives the courts the power to foreclose on the lien and seize the property, even if its ownership has changed. The property then will be auctioned and the proceeds used to pay the taxes. As a result of the tax lien, someone who purchases real estate can't obtain a clear title until all the delinquent taxes owed on the property are paid in full. If you are buying a portion of a larger parcel of land, check the taxes on the larger parcel. You won't be able to clear a tax lien against your part unless taxes on the whole are paid.

Mississippi Code Section 27-41-1.

Tax bills are mailed out December 1 to the owner on record as of January 1 of the year the taxes are due. Three installments are accepted for the payment of property taxes. The first half of the total is due by February 1. A 1% per month interest is due if taxes aren't paid by this date. One fourth of the total tax payment is due by May 1 and a final payment is due July 1, with interest on the last two installments. The tax sale is the last Monday in August each year. Tax payment is accepted through the Friday before the land sale date.

Arkansas

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Taxes are computed and collected from the first business day in March through October 10 of each year (Arkansas Code 26-35-501). Failure to pay property taxes in full by October 10 results in a 10 percent penalty plus cost and collector's fees being added to the tax bill. Taxpayers may, if they choose, pay their taxes in three installments:

- first installment of at least 25 percent due the third Monday in April.
- second installment of at least 25 percent due the third Monday in July.
- third installment of 50 percent due October 10.

With the lessons learned from Louisiana legislation both pre and post Hurricane Katrina and the lessons learned from the other states that were examined, we will provide our recommendations for alternatives that can be used by the City.

6. BEST METHODS FOR AFFORDING PROPERTY OWNERS A CUSTOMER FRIENDLY MEANS OF PAYING PROPERTY TAXES.

We have looked at how the City of New Orleans presently collects taxes, at how other parishes in Louisiana collect property taxes, at recent Louisiana legislation passed in the wake of Katrina and at how other states provide for the collection of property taxes. Clearly the city offers more options than other parishes in the state with the acceptance of partial payments and the utilization an online payment process in lieu of mail or hand delivered payments. By far, Texas offers the most options for payment of taxes including year round escrow accounts, discounts for early payment, and special considerations for elderly and disabled property owners.

However, balancing the circumstances of New Orleans' citizens recovering and rebuilding with the fiscal challenges facing the cash strapped City of New Orleans, we recommend that the best way to create a customer friendly method for collecting taxes while permitting the City to clean-up and rebuild is to permit various methods of payment. In addition to payment in person, by mail and online payment using a checking account or electronic check which are currently utilized by the City of New Orleans, recommended methods for tax payment include: direct debit; payment by telephone; and payment at participating banks.

In addition, the Parish should accept all forms of payment, such as credit card, checks and cash.

We further recommend that the City should permit installments payments similar to Mississippi and Arkansas. For example:

- Taxes collected January 1st,
- 25% due on February 1st plus interest,
- 25% due on May 1st plus interest,
- 25% due on August 1st plus interest,

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- 25% due November 1st plus interest, and
- If taxes are not paid by December 31st of the taxing year, the property shall proceed to processing for tax sale.

As listed above, alternative methods for tax collection can be created that are more customer friendly. These methods, if implemented, should make it easier for tax payers to pay their taxes while they concentrate on cleaning up their property and rebuilding the City. To determine the acceptance of these methods nationally, we attempted to review the literature from professional associations to determine their recommendations.

7. DESCRIPTION OF BEST METHODS AS DOCUMENTED BY PROFESSIONAL ASSOCIATIONS.

Unfortunately, at this time, we were unable to locate any methods documented by professional associations. We will continue our research for this information. However, the practices of other states should provide sufficient guidance and proof of reliability of alternative methods to recommend them to the City.

Presently, tax payers of the City of New Orleans are experiencing unprecedented hardships. Some accommodation must be made to permit payment of property taxes in methods other than one time payment. The states surrounding Louisiana recognize the need for creating optional forms of payment with Texas providing the greatest recognition of the need for flexibility during times of disasters. The City has a pervasive, long-standing history and incidence of poverty. In order to insure that homeowners are not forced to forfeit their hard-earned homes, the greatest flexibility must be adopted especially since insurance companies have been and are slow to pay claims and state and federal governmental agencies are still designing the financial response that they will create to provide assistance to the homeowner. Until insurance companies and governmental agencies have finalized their responses, the City should permit installment payments of ad valorem taxes using all forms of payment. This flexibility would make it easier for tax payers to clean-up and rebuild their property.

We must point out that no observation is made as to whether these alternative methods will either slow down or speed up tax collection by the City. This type of information was not examined for the states that provide the alternatives used to make the recommendations herein. However, it must be noted that Texas, Mississippi and Arkansas have made provision for these alternatives for some time. It should be safe to assume that they would not have maintained these alternatives if they had a negative effect on tax collection.