

SECOND REGULAR SESSION

SENATE BILL NO. 1076

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EHLMANN.

Read 1st time March 1, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2759S.03I

AN ACT

To repeal sections 67.619, 92.045, 92.120, 94.510 and 509.290, RSMo 1994, and sections 99.805 and 253.550, RSMo Supp. 1999, relating to revitalization of St. Louis city, and to enact in lieu thereof fourteen new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 67.619, 92.045, 92.120, 94.510 and 509.290, RSMo 1994, and sections 99.805 and 253.550, RSMo Supp. 1999, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 67.619, 67.1015, 67.1017, 67.1019, 67.1022, 92.045, 92.120, 94.510, 99.805, 227.022, 253.135, 253.550, 508.075 and 509.290, to read as follows:

67.619. 1. The commission, by a vote of three members appointed by the chief executive officer of the county and three members appointed by the chief executive officer of the city, may submit to the voters of such city and such county a tax not to exceed three and three-fourths percent on the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels and motels situated within the city and county involved, and doing business within such city and county. Upon the written request of the regional convention and visitors commission to the respective election officials of such city and county, such election officials shall submit a proposition to the voters of such city and county at the next general or primary election for the election of state officers. Such election officials shall give legal notice as provided in chapter 115, RSMo.

2. Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall a sales tax of percent on the amount of sales or charges for all rooms paid by the transient guests of hotels and motels be levied in the regional cultural and performing arts district

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

of the city of and the county of to provide funds for the promotion of regional convention and tourism and cultural and performing arts development?

9 YES

9 NO

3. In the event that a majority of the voters voting on such proposition in such city and a separate majority of the voters voting on such proposition in such county at such election approve such proposition, then such sales tax shall be in full force and effect as of the first day of the calendar quarter following the calendar quarter in which the election was held.

4. The results of an election held under this section shall be certified by the election officials of the city and county, respectively, to the commission not more than thirty days after the day on which such election was held. The cost of such election shall be borne by the city and county, respectively, as provided by law.

5. In the event a tax is lawfully imposed by a regional convention and visitor commission under sections 67.601 to 67.626:

(1) **Except as provided under section 67.1017**, no gross receipts tax on hotels or motels shall be levied or collected by the city involved so long as the tax imposed under sections 67.601 to 67.626 remains in effect;

(2) No convention and tourism tax, the proceeds of which are to be paid into a convention and tourism fund pursuant to section 66.390, RSMo, shall be levied or collected by the county involved so long as the tax imposed under sections 67.601 to 67.626 remains in effect.

6. If a tax is imposed by a regional convention and visitor commission under sections 67.601 to 67.626, the commission shall have the authority to collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

67.1015. 1. Sections 67.619, 67.1017, 67.1019 and 67.1022, section 92.120, RSMo, section 94.510, RSMo, section 99.805, RSMo, section 227.022, RSMo, section 253.550, RSMo, section 508.075, RSMo, and section 509.290, RSMo, may be cited as the "Revitalization of the St. Louis City Act."

2. The General Assembly finds, determines, and declares that the current deterioration of our inner cities poses a serious threat to the general welfare and economy of Missouri. The General Assembly further finds, determines, and declares that the present economic and tax policies are inadequate to encourage businesses and citizens to remain in the inner city. It is the intent of the General Assembly through the passage of this act to revitalize and stimulate the growth of our inner cities by establishing competitive tax and economic policies.

67.1017. 1. The governing body of any city not within a county may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city, which shall be not more than three percent per occupied room per

night, not including any taxes authorized by section 67.619 or any other provision of law. Such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax under the provisions of this section and section 67.1019. The tax authorized by this section and section 67.1019 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law, and the proceeds may be used for general revenue purposes of the city. Such tax shall be stated separately from all other charges and taxes, except it may be stated in combination with any tax under section 67.619.

2. The question shall be submitted in substantially the following form:

Shall the (City) levy a tax of percent on each sleeping room occupied and rented by transient guests of hotels and motels located in the city?

YES

NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city shall have no power to impose the tax authorized by this section unless and until the governing body of the city again submits the question to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

3. On and after the effective date of any tax authorized under the provisions of this section and section 67.1019, the city which levied the tax may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city which levied the tax may adopt rules and regulations for the internal collection of such tax by the city officers usually responsible for collection and administration of city taxes; or

(2) The city may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section and section 67.1019. In the event any city enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section and section 67.1019, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section and section 67.1019. The tax authorized under the provisions of this section and section 67.1019 shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director

of revenue shall retain not less than one percent nor more than three percent for cost of collection.

4. If a tax is imposed by a city under this section and section 67.1019, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

67.1019. 1. Every person receiving any payment or consideration upon the use of any sleeping room from the transient guest or guests of any hotel or motel, subject to the tax imposed by the provisions of sections 67.1017 to 67.1019, is exercising the taxable privilege of operating or managing a business subject to the provisions of sections 67.1017 to 67.1019 and is subject to the tax authorized by section 67.1017. Such person shall be responsible not only for the collection of the amount of the tax imposed on the business to the extent possible under sections 67.1017 to 67.1019, but shall, on or before the last day of the month following each calendar quarterly period of three months, make a return to the city or its designated agent showing the gross receipts and the amount of tax levied pursuant to section 67.1017 for the preceding quarter, and shall remit with such return, the tax so levied.

2. The person operating or managing the business described in subsection 1 of this section shall collect the tax from the transient guest or guests to the extent possible under the provisions of sections 67.1017 to 67.1019, but the inability to collect any part or all of the tax does not relieve that person of the obligation to pay to the city or its agent the tax imposed by section 67.1017.

3. It shall be unlawful for any person to advertise or hold out or state to the public or to any transient guest, directly or indirectly, that the tax or any part thereof imposed by section 67.1017, and required to be collected by that person, will be absorbed by that person, or anyone on behalf of that person, or that it will not be separately stated and added to the price of the sleeping room, or if added, that it or any part thereof will be refunded.

4. Any person operating or managing a business who owes any tax, penalty or interest, or is required to file any report with the city or its agent, shall notify the city or its agent in writing at least ten days prior to any sale of the entire business or the entire assets or property of the business, or a major part thereof. Such notice shall include the name of the business, the name of the owner of the business, the name of the person collecting the tax at the time of the notice, the name of the purchaser, and the intended date of purchase. A purchaser of such business, assets or property who takes with notice of any delinquent tax or with notice of noncompliance with this section takes subject to any tax, penalty or interest owed by the seller.

5. The city shall have the power to bring a civil action in any court of competent jurisdiction to enjoin the operation of the business of any person or the successor-in-interest to any person operating or managing the same business, which business gave rise to any tax, penalty or interest which is unpaid or to enjoin the operating or managing of any such business whose owners or successors-in-interest are operating or managing in violation of the provisions of sections 67.1017 to 67.1019. The courts shall expedite the hearing on the merits of any such action and shall not require the city to post a bond pending such hearing.

6. In any case in which any tax, interest or penalty imposed under sections 67.1017 to 67.1019 is not paid when due, the city or its designated agent may file for record in the recorder's office of the city, or in which the person owing the tax, interest or penalty resides, a notice of lien specifying the amount of tax, interest or penalty due and the name of the person liable for the same. From the time of filing any such notice, the amount of the tax specified in such notice shall have the force and effect of the lien of a judgment against the person named in the notice of lien and against the personal property of the business of such person for the amount specified in such notice.

7. Such lien may be released by filing for record in the office of the recorder where the lien was originally filed a release of the lien executed by a duly authorized agent of the city upon payment of the tax, interest and penalty due, or upon receipt by the city of security sufficient to secure payment thereof, or by final judgment holding such lien to have been erroneously imposed.

8. Each recorder shall receive a fee of three dollars for the filing of each notice of lien and a fee of one dollar and fifty cents for each release of lien filed for record. Such amounts shall be paid from funds collected by the city. The city is authorized to collect an additional penalty from each taxpayer equal to the cost of filing a notice of lien or release with respect to such taxpayer.

9. Any person violating any of the provisions of sections 67.1017 to 67.1019 shall be deemed guilty of a class C misdemeanor.

67.1022. 1. Any city not within a county may, by ordinance and public election, impose a tax upon parking spaces within the city or upon city property as provided in this section.

2. Any proposal shall be submitted by the governing body of the city to the voters at a state primary, general or special election. The ballot of submission shall be in substantially the following form:

Shall the city of (insert name of city) impose a city tax upon parking spaces at the following rate per parking space (insert rate of tax)?

9 YES

9 NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the legislative body of the city shall have no power to impose the tax herein authorized unless and until the legislative body of the city shall again have submitted another proposal to authorize the legislative body of the city to impose the tax under this section, and such proposal is approved by a majority of the qualified voters voting thereon.

3. The tax may be imposed at a rate of up to one dollar per parking space in ground level parking lots and up to fifty cents per parking space in parking garages located within the city or upon city property. The tax upon spaces in parking garages may vary according to the levels contained in the parking garage.

4. The city shall provide for collection of the tax authorized by this section.

92.045. 1. Any constitutional charter city in this state which now has or may hereafter acquire a population in excess of three hundred fifty thousand inhabitants, according to the last federal decennial census, is hereby authorized, for city and local purposes, to license, tax, and regulate the occupation of merchants, manufacturers, and all businesses, avocations, pursuits, and callings that are not exempt from the payment of licenses by law and may, by ordinance, base such licenses on gross receipts, gross profits or net profits, per capita, flat fee, graduated scale based on gross or net receipts or sales, or any other method or measurement of tax or any combination thereof derived or allocable to the carrying on or conducting of any business, avocation, pursuits or callings or activities carried on in such cities **or airports owned, controlled or maintained by such cities.**

2. The local legislative body may grant by ordinance to its administering tax official the power to adopt regulations and rules relating to any matters pertaining to the administration and enforcement of any ordinances enacted in accordance with the authority heretofore given. Copies of such regulations and rules shall be kept in the office of such tax official designated in such ordinance and shall be open to inspection by the public. Said regulations or rules may be changed or amended from time to time.

92.120. 1. The tax on salaries, wages, commissions and other compensation of individuals, subject to tax, and on the net profits or earnings of associations, businesses or other activities, and corporations, subject to tax, shall not be in excess of one percent per annum.

2. Beginning January 1, 2001, all taxes authorized by sections 92.110 to 92.200 shall be limited as follows:

- (1) On January 1, 2001, a maximum of three-fourths of one percent per annum;**
- (2) On January 1, 2002, a maximum of one-half of one percent per annum;**
- (3) On January 1, 2003, a maximum of one-fourth of one percent per annum; and**

(4) On and after January 1, 2004, no tax may be levied or collected.

94.510. 1. Any city may, by a majority vote of its council or governing body, impose a city sales tax for the benefit of such city in accordance with the provisions of sections 94.500 to 94.550; provided, however, that no ordinance enacted pursuant to the authority granted by the provisions of sections 94.500 to 94.550 shall be effective unless the legislative body of the city submits to the voters of the city, at a public election, a proposal to authorize the legislative body of the city to impose a tax under the provisions of sections 94.500 to 94.550.

The ballot of submission shall be in substantially the following form:

Shall the city of (insert name of city) impose a city sales tax of
(insert rate of percent) percent?

9 YES

9 NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the legislative body of the city shall have no power to impose the tax herein authorized unless and until the legislative body of the city shall again have submitted another proposal to authorize the legislative body of the city to impose the tax under the provisions of sections 94.500 to 94.550, and such proposal is approved by a majority of the qualified voters voting thereon.

2. The sales tax may be imposed at a rate of one-half of one percent, seven-eighths of one percent or one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo; except that, each city not within a county may impose such tax at a rate not to exceed [one and three-eighths] **two and one-eighth** percent.

3. If any city in which a city tax has been imposed in the manner provided for in sections 94.500 to 94.550 shall thereafter change or alter its boundaries, the city clerk of the city shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by the act shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

99.805. As used in sections 99.800 to 99.865, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or

property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision for projects approved on or after December 23, 1997;

(4) "Economic activity taxes", the total additional revenue from taxes which are imposed by a municipality and other taxing districts, and which are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments. For redevelopment projects or redevelopment plans approved after December 23, 1997, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

(5) "Economic development area", any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and (3) of this section, and in which the governing body of the municipality finds that redevelopment [will not be solely used for development of commercial businesses which unfairly compete in the local economy and] is in the public interest because it will:

(a) Discourage commerce, **other than retail business that competes in the local**

economy, industry or manufacturing from moving their operations to another state; or

(b) [Result in increased employment in the municipality; or

(c) Result in preservation or enhancement of the tax base of the municipality] **Encourage**

industry or manufacturing to move from another state;

(6) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo. This subdivision shall be applicable only to a redevelopment area designated by ordinance adopted after December 23, 1997;

(7) "Municipality", a city, village, or incorporated town or any county of this state. For redevelopment areas or projects approved on or after December 23, 1997, "municipality" applies only to cities, villages, incorporated towns or counties established for at least one year prior to such date;

(8) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a municipality to carry out a redevelopment project or to refund outstanding obligations;

(9) "Ordinance", an ordinance enacted by the governing body of a city, town, or village or a county or an order of the governing body of a county whose governing body is not authorized to enact ordinances;

(10) "Payment in lieu of taxes", those estimated revenues from real property in the area selected for a redevelopment project, which revenues according to the redevelopment project or plan are to be used for a private use, which taxing districts would have received had a municipality not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 2 of section 99.850;

(11) "Redevelopment area", an area designated by a municipality, in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area, an enterprise zone pursuant to sections 135.200 to 135.256, RSMo, or a combination thereof, which area includes only those parcels of real property directly and substantially benefitted by the proposed redevelopment project;

(12) "Redevelopment plan", the comprehensive program of a municipality for redevelopment

intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, conservation area, economic development area, or combination thereof, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of section 99.810;

(13) "Redevelopment project", any development project within a redevelopment area in furtherance of the objectives of the redevelopment plan; any such redevelopment project shall include a legal description of the area selected for the redevelopment project;

(14) "Redevelopment project costs" include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan or redevelopment project, as applicable. Such costs include, but are not limited to, the following:

(a) Costs of studies, surveys, plans, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except the reasonable costs incurred by the commission established in section 99.820 for the administration of sections 99.800 to 99.865, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of a redevelopment plan or project;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures;

(e) Initial costs for an economic development area;

(f) Costs of construction of public works or improvements;

(g) Financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations, and which may include payment of interest on any obligations issued pursuant to sections 99.800 to 99.865 accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto;

(h) All or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs;

(i) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or are required to be paid by federal or state law;

(j) Payments in lieu of taxes;

(15) "Special allocation fund", the fund of a municipality or its commission which contains

at least two separate segregated accounts for each redevelopment plan, maintained by the treasurer of the municipality or the treasurer of the commission into which payments in lieu of taxes are deposited in one account, and economic activity taxes and other revenues are deposited in the other account;

(16) "Taxing districts", any political subdivision of this state having the power to levy taxes;

(17) "Taxing districts' capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from the redevelopment project; and

(18) "Vacant land", any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

227.022. 1. In addition to the routes described in section 227.020, ten percent of the street mileage within any city not within a county shall be considered part of the state highway system for the purposes of maintenance and repair only.

2. The Missouri highways and transportation commission shall designate the streets to be considered state highways. The street mileage shall be calculated by multiplying the distance of each street or highway by the number of full-use lanes.

253.135. 1. The department of natural resources shall repair and maintain as state parks all lands donated by any city not within a county, as provided in this section. The department shall accept the land notwithstanding the provisions of section 253.040.

2. Any city not within a county is authorized to designate two parks within its boundaries as state parks, to be maintained by the department of natural resources. The city may retain ownership and maintenance of buildings or other structures within the parks, along with access rights, or the city may retain ownership and maintenance of part of any park which is donated.

3. The effective date of any donation shall be established by the city.

253.550. Any person, firm, partnership, trust, estate, or corporation incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on that person or entity in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer

of the Missouri department of natural resources. **The tax credit under this section for any historic structure within any city not within a county shall be thirty percent of the total costs and expenses of rehabilitation.**

508.075. 1. Each court of this state shall decline to exercise jurisdiction of any cause of action accruing outside the circuit in which the court is located if there is another forum with jurisdiction of the parties in which the trial can be more conveniently held taking into account the following:

- (1) Place of accrual of the cause of action;**
- (2) Location of witnesses and sources of proof;**
- (3) Residence of the parties;**
- (4) The burden upon the court and the taxpayers and citizens of the county in which the action has been filed.**

2. If upon motion of any party, filed not later than ninety days after the last day allowed for the filing of that party's answer, it is shown that a more convenient forum exists, the court shall dismiss the action without prejudice on any conditions that may be just or transfer the case to a more convenient forum.

3. If a court dismisses an action pursuant to subsection 1 of this section, the dismissal shall be under the following conditions:

- (1) If the plaintiff elects to file the action in another forum within six months of the dismissal order, the defendant shall accept service of process from that court; and**
- (2) If the statute of limitations has run in the other forum, the defendant shall waive that defense.**

4. If the defendant refuses to abide by the conditions of this subsection, the cause of action shall be reinstated in the court in which the dismissal was granted, or if the court in the other forum refuses to accept jurisdiction, the plaintiff may, within thirty days of the final order refusing jurisdiction, reinstate the cause of action in the court in which the dismissal was granted.

5. If a court transfers a case pursuant to this section, the clerk of the court from which the transfer is granted shall immediately certify and transmit to the clerk of the court to which the transfer is ordered the originals of all papers filed in the case together with copies of all orders entered in such case.

509.290. 1. The following objections and other matters may be raised by motion whether or not the same may appear from the pleadings and other papers filed in the cause:

- (1) Lack of jurisdiction over the subject matter;**
- (2) Lack of jurisdiction over the person;**
- (3) Improper venue **or inconvenient forum;****
- (4) Insufficiency of process;**

- (5) Insufficiency of service of process;
- (6) That plaintiff should furnish security for costs;
- (7) That plaintiff has not legal capacity to sue;
- (8) That there is another action pending between the same parties for the same cause in this state;
- (9) That several claims have been improperly united;
- (10) That the counterclaim or cross-claim is one which cannot be properly interposed in the action.

2. The grounds of any of the [above] **motions described in subsection 1 of this section** may be supplied by affidavit and may be controverted by opposing affidavit in accordance with subsection 4 of section 506.060, RSMo.

Unofficial

Bill

Copy