

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 989
91ST GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, May 13, 2002, with recommendation that the House Committee Substitute for Senate Bill No. 989 Do Pass.

TED WEDEL, Chief Clerk

4143L.05C

AN ACT

To repeal sections 137.082 and 139.031, RSMo, and to enact in lieu thereof two new sections relating to property taxation.

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

Section A. Sections 137.082 and 139.031, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 137.082 and 139.031, to read as follows:

137.082. 1. Notwithstanding the provisions of sections 137.075 and 137.080, to the contrary, a building or other structure classified as residential property pursuant to section 137.016, newly constructed and occupied on any parcel of real property shall be assessed and taxed on such assessed valuation as of the first day of the month following the date of occupancy for the proportionate part of the remaining year at the tax rates established for that year, in all taxing jurisdictions located in the county adopting this section as provided in subsection 8 of this section. Newly constructed residential property which has never been occupied shall not be assessed as improved real property until such occupancy or the first day of January of the second year following the year in which construction of the improvements was completed.

2. The assessor may consider a property residentially occupied upon personal verification or when any two of the following conditions have been met:

- (1) An occupancy permit has been issued for the property;
- (2) A deed transferring ownership from one party to another has been filed with the recorder of deeds' office subsequent to the date of the first permanent utility service;

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

(3) A utility company providing service in the county has verified a transfer of service for property from one party to another;

(4) The person or persons occupying the newly constructed property has registered a change of address with any local, state or federal governmental office or agency.

3. In implementing the provisions of this section, the assessor may use occupancy permits, building permits, warranty deeds, utility connection documents, including telephone connections, or other official documents as may be necessary to discover the existence of newly constructed properties. No utility company shall refuse to provide verification monthly to the assessor of a utility connection to a newly occupied single family building or structure.

4. In the event that the assessment under subsections 1 and 2 of this section is not completed until after the deadline for filing appeals in a given tax year, the owner of the newly constructed property who is aggrieved by the assessment of the property may appeal this assessment the following year to the county board of equalization in accordance with chapter 138, RSMo, and may pay any taxes under protest in accordance with section 139.031, RSMo. The collector shall impound such protested taxes and shall not disburse such taxes until resolution of the appeal.

5. The increase in assessed valuation resulting from the implementation of the provisions of this section shall be considered new construction and improvements under the provisions of this chapter.

6. In counties which adopt the provisions of subsections 1 to 7 of this section, an amount not to exceed ten percent of all ad valorem property tax collections on newly constructed and occupied residential property allocable to each taxing authority within counties of the first classification having a population of nine hundred thousand or more, one-tenth of one percent of all ad valorem property tax collections allocable to each taxing authority within all other counties of the first classification and one-fifth of one percent of all ad valorem property tax collections allocable to each taxing authority within counties of the second, third and fourth classifications **and any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants**, in addition to the amount prescribed by section 137.720 shall be deposited into the assessment fund of the county for collection costs.

7. For purposes of figuring the tax due on such newly constructed residential property, the assessor or the board of equalization shall place the full amount of the assessed valuation on the tax book upon the first day of the month following occupancy. Such assessed valuation shall be taxed for each month of the year following such date at its new assessed valuation, and for each month of the year preceding such date at its previous valuation. The percentage derived from dividing the number of months at which the property is taxed at its new valuation by twelve shall be applied to the total assessed valuation of the new construction and improvements, and such product shall be included in the next year's base for the purposes of figuring the next year's tax levy rollback. The untaxed percentage shall be considered as new construction and improvements in the following year and shall be exempt from the rollback provisions.

8. Subsections 1 to 7 of this section shall be effective in those counties including any city not within a county in which the governing body of such county elects to adopt a proposal to implement the provisions of subsections 1 to 7 of this section. Such subsections shall become effective in such county on the first day of January of the year following such election.

9. In any county which adopts the provisions of subsections 1 to 7 of this section prior to the first day of June in any year pursuant to subsection 8 of this section, the assessor of such county shall, upon application of the property owner, remove on a pro rata basis from the tax book for the current year any residential real property improvements destroyed by a natural disaster if such property is unoccupied and uninhabitable due to such destruction. On or after the first day of June, the board of equalization shall perform such duties. Any person claiming such destroyed property shall provide a list of such destroyed property to the county assessor. The assessor shall have available a supply of appropriate forms on which the claim shall be made. The assessor may verify all such destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster shall, in addition to any other penalties provided by law, be assessed double the value of any property fraudulently listed. The list shall be filed by the assessor, after he has provided a copy of the list to the county collector and the board of equalization, in the office of the county clerk who, after entering the filing thereof, shall preserve and safely keep them. If the assessor, subsequent to such destruction, considers such property occupied as provided in subsection 2 of this section, the assessor shall consider such property new construction and improvements and shall assess such property accordingly as provided in subsection 1 of this section. For the purposes of this section, the term "natural disaster" means any disaster due to natural causes such as tornado, fire, flood, or earthquake.

10. Any political subdivision may recover the loss of revenue caused by subsection 9 of this section by adjusting the rate of taxation, to the extent previously authorized by the voters of such political subdivision, for the tax year immediately following the year of such destruction in an amount not to exceed the loss of revenue caused by this section.

139.031. 1. Any taxpayer may protest all or any part of any taxes assessed against [him] **such taxpayer**, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which [his] **such taxpayer's** protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. Upon receiving payment of taxes under protest pursuant to subsection 1 of this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are in dispute. Except as provided in subsection 3 of this section, every taxpayer protesting the payment of taxes shall, within ninety days after filing [his] **such taxpayer's** protest,

commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains [his] **an** office. If any taxpayer so protesting [his] **such taxpayer's** taxes shall fail to commence an action in the circuit court for the recovery of the taxes protested within the time prescribed in this subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the taxes impounded, and any interest earned thereon, as provided above in this subsection.

3. No action against the collector shall be commenced by any taxpayer who has, for the tax year in issue, filed with the state tax commission a timely and proper appeal of the protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by subsection 1 of this section. The taxes so protested shall be impounded in a separate fund and the commission may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release and disburse all or any part of such taxes in its decision and order issued pursuant to chapter 138, RSMo.

4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after determination of the issues, the court shall make such orders as may be just and equitable to refund to the taxpayer all or any part of the taxes paid under protest, together with any interest earned thereon, or to authorize the collector to release and disburse all or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing authorities. Either party to the proceedings may appeal the determination of the circuit court.

5. All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, refund any real or tangible personal property tax mistakenly or erroneously paid in whole or in part to the collector, or shall credit against the taxpayer's tax liability in the following taxable year **and subsequent consecutive taxable years until the taxpayer has received credit in full for** any [real or personal property] tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector, **or, if the taxpayer has no tax liability to such collector in the immediately following taxable year, refund any balance remaining on tax mistakenly or erroneously paid in whole or in part to the collector.** Such application shall be filed within one year **for personal property taxes and three years for real property taxes** after the tax is mistakenly or erroneously paid. [The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds under this subsection by issuing warrants upon the fund to which the mistaken or erroneous payment has been credited, or otherwise.]

6. No taxpayer shall receive any interest on any money paid in by [him] **such taxpayer** erroneously.

7. All protested taxes shall be invested by the collector in the same manner as assets specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested taxes shall also receive the interest earned on the investment thereof. If the collector is ordered to release

and disburse all or part of the taxes paid under protest to the proper official, such taxes shall be disbursed along with the proportional amount of interest earned on the investment of the taxes due the particular taxing authority.

8. On or before March first next following the delinquent date of taxes paid under protest, the county collector shall notify any taxing authority of the taxes paid under protest which would be received by such taxing authority if the funds were not the subject of a protest. Any taxing authority may apply to the circuit court of the county or city not within a county in which a collector has impounded protested taxes [under] **pursuant to** this section and, upon a satisfactory showing that such taxing authority would receive such impounded tax funds if they were not the subject of a protest and that such taxing authority has the financial ability and legal capacity to repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursal of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order [under] **pursuant to** this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested tax funds refunded to a taxpayer were disbursed to a taxing authority [under] **pursuant to** this subsection instead of being held and invested by the collector [under] **pursuant to** subsection 7 of this section, such taxing authority shall pay the taxpayer entitled to the refund of such protested taxes the same amount of interest, as determined by the circuit court having jurisdiction in the matter, such protested taxes would have earned if they had been held and invested by the collector.

9. No appeal filed shall stay any order of refund, but the decision filed by any court of last review modifying the circuit court's or state tax commission's determination pertaining to the amount of refund shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part.

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