

FIRST REGULAR SESSION

SENATE BILL NO. 426

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

Read 1st time February 21, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2132S.011

AN ACT

To repeal sections 209.625 and 472.010, RSMo, and to enact in lieu thereof two new sections relating to the Missouri ABLE program.

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

Section A. Sections 209.625 and 472.010, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 209.625 and 472.010, to
3 read as follows:

209.625. 1. Notwithstanding any law to the contrary, the assets of the
2 ABLE program held by the board and the assets of any ABLE account and any
3 income therefrom shall be exempt from all taxation by the state or any of its
4 political subdivisions. Income earned or received from an ABLE account or
5 deposit shall not be subject to state income tax imposed pursuant to chapter
6 143. The exemption from taxation pursuant to this section shall apply only to
7 assets and income maintained, accrued, or expended pursuant to the
8 requirements of the ABLE program established pursuant to sections 209.600 to
9 209.645, and no exemption shall apply to assets and income expended for any
10 other purposes. Annual contributions made to the ABLE program held by the
11 board up to and including eight thousand dollars per participating taxpayer, and
12 up to sixteen thousand dollars for married individuals filing a joint tax return,
13 shall be subtracted in determining Missouri adjusted gross income pursuant to
14 section 143.121.

15 2. If any deductible contributions to or earnings from any such program
16 referred to in this section are distributed and not used to pay qualified disability
17 expenses or are not held for the minimum length of time established by the
18 appropriate Missouri board, the amount so distributed shall be added to the
19 Missouri adjusted gross income of the participant, or, if the participant is not

20 living, the designated beneficiary.

21 3. The provisions of this section shall apply to tax years beginning on or
22 after January 1, 2015.

23 4. **The assets held in an ABLE account under sections 209.600 to**
24 **209.645 shall not be considered the property of a conservatorship estate**
25 **established under chapter 475.**

26 5. **The provisions of subsection 4 of this section shall not apply**
27 **to ABLE accounts in the charge and custody of a public administrator.**

472.010. When used in this code, unless otherwise apparent from the
2 context:

3 (1) "Administrator" includes any administrator de bonis non,
4 administrator cum testamento annexo, administrator ad litem and administrator
5 during absence or minority;

6 (2) "Child" includes an adopted child and a child born out of wedlock, but
7 does not include a grandchild or other more remote descendants;

8 (3) "Claims" include liabilities of the decedent which survive whether
9 arising in contract, tort or otherwise, funeral expenses, the expense of a
10 tombstone, and costs and expenses of administration;

11 (4) "Clerk" means clerk of the probate division of the circuit court;

12 (5) "Code" or "probate code" means chapters 472, 473, 474 and 475;

13 (6) "Court" or "probate court" means the probate division of the circuit
14 court;

15 (7) "Devise", when used as a noun, means a testamentary disposition of
16 real or personal property or both; when used as a verb it means to dispose of real
17 or personal property or both by will;

18 (8) "Devisee" includes legatee;

19 (9) "Distributee" denotes those persons who are entitled to the real and
20 personal property of a decedent under his will, under the statutes of intestate
21 succession or who take as surviving spouse under section 474.160, upon election
22 to take against the will;

23 (10) "Domicile" means the place in which a person has voluntarily fixed
24 his abode, not for a mere special or temporary purpose, but with a present
25 intention of remaining there permanently or for an indefinite time;

26 (11) "Estate" means the real and personal property of the decedent or
27 ward, as from time to time changed in form by sale, reinvestment or otherwise,
28 and augmented by any accretions and additions thereto and substitutions

29 therefor, and diminished by any decreases and distributions therefrom. **Under**
30 **the provisions of subsections 4 and 5 of section 209.625, assets held in**
31 **an ABLE account established under sections 209.600 to 209.645 shall not**
32 **be considered the property of the designated beneficiary of said**
33 **account for purposes of this subdivision when applied in chapter 475,**
34 **unless the estate is in the charge and custody of a public administrator;**

35 (12) "Exempt property" means that property of a decedent's estate which
36 is not subject to be applied to the payment of claims, charges, legacies or bequests
37 as described in section 474.250;

38 (13) "Fiduciary" includes executor, administrator, guardian, conservator,
39 and trustee;

40 (14) "Heirs" means those persons, including the surviving spouse, who are
41 entitled under the statutes of intestate succession to the real and personal
42 property of a decedent on his death intestate;

43 (15) "Interested persons" mean heirs, devisees, spouses, creditors or any
44 others having a property right or claim against the estate of a decedent being
45 administered and includes children of a protectee who may have a property right
46 or claim against or an interest in the estate of a protectee. This meaning may
47 vary at different stages and different parts of a proceeding and must be
48 determined according to the particular purpose and matter involved;

49 (16) "Issue" of a person, when used to refer to persons who take by
50 intestate succession, includes adopted children and all lawful lineal descendants,
51 except those who are the lineal descendants of living lineal descendants of the
52 intestate;

53 (17) "Lease" includes an oil and gas lease or other mineral lease, but does
54 not include month-to-month or year-to-year tenancies under oral contracts;

55 (18) "Legacy" means a testamentary disposition of personal property;

56 (19) "Legatee" means a person entitled to personal property under a will;

57 (20) "Letters" include letters testamentary, letters of administration and
58 letters of guardianship;

59 (21) "Lien" includes all liens except general judgment, execution and
60 attachment liens;

61 (22) "Lineal descendants" include adopted children and their descendants;

62 (23) "Mortgage" includes deed of trust, vendor's lien and chattel mortgage;

63 (24) "Person" includes natural persons and corporations;

64 (25) "Personal property" includes interests in goods, money, choses in

65 action, evidences of debt, shares of corporate stock, and chattels real;

66 (26) "Personal representative" means executor or administrator. It
67 includes an administrator with the will annexed, an administrator de bonis non,
68 an administrator pending contest, an administrator during minority or absence,
69 and any other type of administrator of the estate of a decedent whose
70 appointment is permitted. It does not include an executor de son tort;

71 (27) "Property" includes both real and personal property;

72 (28) "Real property" includes estates and interests in land, corporeal or
73 incorporeal, legal or equitable, other than chattels real;

74 (29) "Registered mail" includes "certified mail" as defined and certified
75 under regulations of the United States Postal Service;

76 (30) "Will" includes codicil; it also includes a testamentary instrument
77 which merely appoints an executor and a testamentary instrument which merely
78 revokes or revives another will.

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Bill

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