

# SENATE BILL NO. 1001

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

4146S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 138.060, 138.434, and 139.031, RSMo, and to enact in lieu thereof four new sections relating to property taxes.

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

Section A. Sections 138.060, 138.434, and 139.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 137.132, 138.060, 138.434, and 139.031, to read as follows:

**137.132. 1. For the purposes of this section, and in any appeal alleging a violation thereof, the following terms shall mean:**

**(1) "Common level of assessment", the ratio of the total of the assessor's assessed values for all real property in a subclass, as verified pursuant to section 137.245, to the total of actual true values in money of the same real property, expressed as a percentage, and measured by an assessment ratio study;**

**(2) "Individual level of assessment", the ratio of an assessor's assessed value for an individual parcel of real property, as verified pursuant to section 137.245, to the actual true value in money of such real property, expressed as a percentage.**

**2. The level of assessment of all real property in subclass (1) or subclass (3), as provided in section 137.115, shall be uniform and equal throughout each**

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

18 subclass. If the common level of assessment in either  
19 subclass is lower than the individual level of assessment of  
20 any parcel in the same subclass, the individual level of  
21 assessment of such parcel shall be lowered to the common  
22 level of assessment for the subclass upon appeal by the  
23 property owner to the local board of equalization, state tax  
24 commission, or circuit court.

25 3. When determining the individual level of assessment  
26 of a parcel of real property, the lesser of the assessor's  
27 appraised value, as verified pursuant to section 137.245, or  
28 the appraised value set by the local board of equalization  
29 shall be presumed to be the actual true value in money for  
30 such real property, absent substantial and persuasive  
31 evidence establishing a lower true value in money.

138.060. 1. The county board of equalization shall,  
2 in a summary way, determine all appeals from the valuation  
3 of property made by the assessor, and shall correct and  
4 adjust the assessment accordingly. There shall be no  
5 presumption that the assessor's valuation is correct. In  
6 any county with a charter form of government with a  
7 population greater than two hundred eighty thousand  
8 inhabitants but less than two hundred eighty-five thousand  
9 inhabitants, in any county with a charter form of government  
10 with greater than one million inhabitants, in any city not  
11 within a county, and in any other county for any property  
12 whose assessed valuation increased at least fifteen percent  
13 from the previous assessment unless the increase is due to  
14 new construction or improvement, the assessor shall have the  
15 burden to prove that the assessor's valuation does not  
16 exceed the true market value of the subject property. In  
17 such county or city, in the event a physical inspection of  
18 the subject property is required by subsection 10 of section

19 137.115, the assessor shall have the burden to establish the  
20 manner in which the physical inspection was performed and  
21 shall have the burden to prove that the physical inspection  
22 was performed in accordance with section 137.115. In such  
23 county or city, in the event the assessor fails to provide  
24 sufficient evidence to establish that the physical  
25 inspection was performed in accordance with section 137.115,  
26 the property owner shall prevail on the appeal as a matter  
27 of law, **and the assessor's increased assessed valuation**  
28 **shall be void in its entirety, and the previous assessed**  
29 **valuation shall be applied to the property in place of the**  
30 **increased assessed valuation.** At any hearing before the  
31 state tax commission or a court of competent jurisdiction of  
32 an appeal of assessment from a first class charter county or  
33 a city not within a county, the assessor shall not advocate  
34 nor present evidence advocating a valuation higher than that  
35 value finally determined by the assessor or the value  
36 determined by the board of equalization, whichever is  
37 higher, for that assessment period.

38 2. The county clerk shall keep an accurate record of  
39 the proceedings and orders of the board, and the assessor  
40 shall correct all erroneous assessments, and the clerk shall  
41 adjust the tax book according to the orders of such board  
42 and the orders of the state tax commission, except that in  
43 adding or deducting such percent to each tract or parcel of  
44 real estate as required by such board or state tax  
45 commission, he shall add or deduct in each case any  
46 fractional sum of less than fifty cents, so that the value  
47 of any separate tract shall contain no fractions of a dollar.

138.434. **In** any first class charter county or a city  
2 not within a county [may require by ordinance or charter the  
3 reimbursement to], a taxpayer [for the amount of just and

4 reasonable appraisal costs, attorney fees and court costs]  
5 **shall be entitled to an award of all attorney's fees and**  
6 **costs of litigation** resulting from an evidentiary hearing  
7 before the state tax commission or a court of competent  
8 jurisdiction, **including but not limited to attorney's fees,**  
9 **appraisal costs, witness fees, and court costs, whether paid**  
10 **directly by the taxpayer or paid by an attorney, tax agent,**  
11 **or other third party,** if such appeal results in a final  
12 decision reducing the appraised value of residential  
13 property by at least fifteen percent or the appraised value  
14 of utility, industrial railroad and other subclass three  
15 property by at least twenty-five percent from the appraised  
16 value determined by the board of equalization for that tax  
17 year. The commission or court awarding such fees and costs  
18 shall consider the reasonableness of the fees and costs  
19 within the context of the particular case. Such fees and  
20 costs shall not exceed [one] **five** thousand dollars for a  
21 residential property appeal. Such fees and costs for  
22 utility, industrial railroad or other subclass three  
23 property appeals shall not exceed the lesser of [four] **five**  
24 thousand dollars or twenty-five percent of the tax savings  
25 resulting from the appeal. The provisions of this section  
26 shall only apply to the first contested year when cases are  
27 tried on a consolidated basis.

139.031. 1. Any taxpayer may protest all or any part  
2 of any current taxes assessed against the taxpayer, except  
3 taxes collected by the director of revenue of Missouri. Any  
4 such taxpayer desiring to pay any current taxes under  
5 protest or while paying taxes based upon a disputed  
6 assessment shall[, at the time of paying such taxes,] make  
7 full payment of the current tax bill before the delinquency  
8 date and file with the collector **before the delinquency date**

9 a written statement setting forth the grounds on which the  
10 protest is based. The statement shall include the true  
11 value in money claimed by the taxpayer if disputed. An  
12 appeal before the state tax commission shall not be  
13 dismissed on the grounds that a taxpayer failed to file a  
14 written statement when paying taxes based upon a disputed  
15 assessment.

16 2. Upon receiving [payment of current taxes under]  
17 **written notice of** protest under subsection 1 of this section  
18 or upon receiving from the state tax commission or the  
19 circuit court notice of an appeal from the state tax  
20 commission or the circuit court under section 138.430,  
21 [along with] **and** full payment of the current tax bill before  
22 the delinquency date, the collector shall disburse to the  
23 proper official all portions of taxes not protested or not  
24 disputed by the taxpayer and shall impound in a separate  
25 fund all portions of such taxes which are protested or in  
26 dispute. Every taxpayer protesting the payment of current  
27 taxes under subsection 1 of this section shall, within  
28 ninety days after filing his protest, commence an action  
29 against the collector by filing a petition for the recovery  
30 of the amount protested in the circuit court of the county  
31 in which the collector maintains his office. If any  
32 taxpayer so protesting his taxes under subsection 1 of this  
33 section shall fail to commence an action in the circuit  
34 court for the recovery of the taxes protested within the  
35 time prescribed in this subsection, such protest shall  
36 become null and void and of no effect, and the collector  
37 shall then disburse to the proper official the taxes  
38 impounded, and any interest earned thereon, as provided  
39 above in this subsection.

40           3. No action against the collector shall be commenced  
41 by any taxpayer who has, effective for the current tax year,  
42 filed with the state tax commission or the circuit court a  
43 timely and proper appeal of the assessment of the taxpayer's  
44 property. The portion of taxes in dispute from an appeal of  
45 an assessment shall be impounded in a separate fund and the  
46 commission in its decision and order issued under chapter  
47 138 or the circuit court in its judgment may order all or  
48 any part of such taxes refunded to the taxpayer, or may  
49 authorize the collector to release and disburse all or any  
50 part of such taxes.

51           4. Trial of the action for recovery of taxes protested  
52 under subsection 1 of this section in the circuit court  
53 shall be in the manner prescribed for nonjury civil  
54 proceedings, and, after determination of the issues, the  
55 court shall make such orders as may be just and equitable to  
56 refund to the taxpayer all or any part of the current taxes  
57 paid under protest, together with any interest earned  
58 thereon, or to authorize the collector to release and  
59 disburse all or any part of the impounded taxes, and any  
60 interest earned thereon, to the appropriate officials of the  
61 taxing authorities. Either party to the proceedings may  
62 appeal the determination of the circuit court.

63           5. All the county collectors of taxes, and the  
64 collector of taxes in any city not within a county, shall,  
65 upon written application of a taxpayer, refund or credit  
66 against the taxpayer's tax liability in the following  
67 taxable year and subsequent consecutive taxable years until  
68 the taxpayer has received credit in full for any real or  
69 personal property tax mistakenly or erroneously levied  
70 against the taxpayer and collected in whole or in part by  
71 the collector. Such application shall be filed within three

72 years after the tax is mistakenly or erroneously paid. The  
73 governing body, or other appropriate body or official of the  
74 county or city not within a county, shall make available to  
75 the collector funds necessary to make refunds under this  
76 subsection by issuing warrants upon the fund to which the  
77 mistaken or erroneous payment has been credited, or  
78 otherwise.

79 6. No taxpayer shall receive any interest on any money  
80 paid in by the taxpayer erroneously.

81 7. All protested taxes impounded under protest under  
82 subsection 1 of this section and all disputed taxes  
83 impounded under notice as required by section 138.430 shall  
84 be invested by the collector in the same manner as assets  
85 specified in section 30.260 for investment of state moneys.  
86 A taxpayer who is entitled to a refund of protested or  
87 disputed taxes shall also receive the interest earned on the  
88 investment thereof. If the collector is ordered to release  
89 and disburse all or part of the taxes paid under protest or  
90 dispute to the proper official, such taxes shall be  
91 disbursed along with the proportional amount of interest  
92 earned on the investment of the taxes due the particular  
93 taxing authority.

94 8. Any taxing authority may request to be notified by  
95 the county collector of current taxes paid under protest.  
96 Such request shall be in writing and submitted on or before  
97 February first next following the delinquent date of current  
98 taxes paid under protest or disputed, and the county  
99 collector shall provide such information on or before March  
100 first of the same year to the requesting taxing authority of  
101 the taxes paid under protest and disputed taxes which would  
102 be received by such taxing authority if the funds were not  
103 the subject of a protest or dispute. Any taxing authority

104 may apply to the circuit court of the county or city not  
105 within a county in which a collector has impounded protested  
106 or disputed taxes under this section and, upon a  
107 satisfactory showing that such taxing authority would  
108 receive such impounded tax funds if they were not the  
109 subject of a protest or dispute and that such taxing  
110 authority has the financial ability and legal capacity to  
111 repay such impounded tax funds in the event a decision  
112 ordering a refund to the taxpayer is subsequently made, the  
113 circuit court shall order, pendente lite, the disbursal of  
114 all or any part of such impounded tax funds to such taxing  
115 authority. The circuit court issuing an order under this  
116 subsection shall retain jurisdiction of such matter for  
117 further proceedings, if any, to compel restitution of such  
118 tax funds to the taxpayer. In the event that any protested  
119 or disputed tax funds refunded to a taxpayer were disbursed  
120 to a taxing authority under this subsection instead of being  
121 held and invested by the collector under subsection 7 of  
122 this section, the taxpayer shall be entitled to interest on  
123 all refunded tax funds, **from the date that the disputed**  
124 **taxes were distributed to a taxing authority through the**  
125 **date of the refund,** at the [annual rate] **rates** calculated by  
126 the state treasurer and applied by the director of revenue  
127 under section 32.068. This measure of interest shall only  
128 apply to protested or disputed tax funds actually  
129 distributed to a taxing authority pursuant to this  
130 subsection. In the event of a refund of protested or  
131 disputed tax funds which remain impounded by the collector,  
132 the taxpayer shall instead be entitled to the interest  
133 actually earned on those refunded impounded tax funds under  
134 subsection 7 of this section. Any sovereign or official  
135 immunity otherwise applicable to the taxing authorities is



136 hereby waived for all purposes related to this subsection,  
137 and the taxpayer is expressly authorized to seek an order  
138 enforcing this provision from the circuit court that  
139 originally ordered the distribution of the protested or  
140 disputed funds, or directly from the state tax commission,  
141 if the tax appeal that resulted in the refund was heard and  
142 determined by the state tax commission.

143       9. No appeal filed from the circuit court's or state  
144 tax commission's determination pertaining to the amount of  
145 refund shall stay any order of refund, but the decision  
146 filed by any court of last review modifying that  
147 determination shall be binding on the parties, and the  
148 decision rendered shall be complied with by the party  
149 affected by any modification within ninety days of the date  
150 of such decision. No taxpayer shall receive any interest on  
151 any additional award of refund, and the collector shall not  
152 receive any interest on any ordered return of refund in  
153 whole or in part. **In the event that a taxpayer is entitled**  
154 **to a refund, the collector shall issue the refund to the**  
155 **taxpayer within thirty days of the date that the circuit**  
156 **court's or state tax commission's determination establishing**  
157 **the amount of the refund becomes final, and if the collector**  
158 **does not issue the refund within thirty days, the taxpayer**  
159 **shall be entitled to interest on the refund at the rate**  
160 **established by the director of revenue under section 32.065**  
161 **for the period of time after the expiration of the thirty**  
162 **days and until the refund is issued, in addition to all**  
163 **other interest due to the taxpayer under this section.**

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