

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 394
90TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Economic Development, February 25, 1999, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 394, adopted March 23, 1999.

Taken up for Perfection March 23, 1999. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S1073.03P

AN ACT

To repeal sections 137.016, 138.430, 140.110, 242.580, 243.370, 245.210 and 516.010, RSMo 1994, relating to ownership of property, and to enact in lieu thereof eight new sections relating to the same subject.

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

Section A. Sections 137.016, 138.430, 140.110, 242.580, 243.370, 245.210 and 516.010, RSMo 1994, are repealed and eight new sections enacted in lieu thereof, to be known as sections 137.016, 138.430, 140.110, 242.580, 243.370, 245.210, 408.620 and 516.010, to read as follows:

137.016. 1. As used in section 4(b) of article X of the Missouri Constitution, the following terms mean:

(1) "Residential property", all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, [and] manufactured home parks[, but] **and floating docks, including floating docks that are jointly owned. For the purposes of this section, a floating dock that is not owned by an electrical or gas corporation but which is attached to real property owned by an electrical or gas corporation shall be treated as residential property of the owner or owners of the floating dock and not as residential**

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

property of the electrical or gas corporation. Residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, transient housing means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to section 144.020.1(6), RSMo;

(2) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock which shall include breeding and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government. Agricultural and horticultural property shall further include land and improvements, exclusive of structures, on privately owned airports that qualify as reliever airports under the Nation Plan of Integrated Airports System, to receive federal airport improvement project funds through the Federal Aviation Administration. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution;

(3) "Utility, industrial, commercial, railroad and other real property", all real property used directly or indirectly, for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission [but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units]. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term "utility, industrial, commercial, railroad and other real property".

2. Pursuant to article X of the state constitution, any taxing district may adjust its operating levy to recoup any loss of property tax revenue, except revenues from the surtax imposed pursuant to article X, section 6.2 of the constitution, as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units if such adjustment of the levy does not exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this section, loss in revenue shall include the difference between the revenue that would have been collected on such property under its classification prior to enactment of this section and the amount to be collected under its classification under this section. The county assessor of each county or city not within a county shall provide information to each taxing district within its boundaries regarding the difference in

assessed valuation of such property as the result of such change in classification.

3. All reclassification of property as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units shall apply to assessments made after December 31, 1994.

4. Where real property is used or held for use for more than one purpose and such uses result in different classifications, the county assessor shall allocate to each classification the percentage of the true value in money of the property devoted to each use; except that, where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, as defined in this section.

5. All real property which is vacant, unused, or held for future use; which is used for a private club, a not for profit or other nonexempt lodge, club, business, trade, service organization, or similar entity; or for which a determination as to its classification cannot be made under the definitions set out in subsection 1 of this section, shall be classified according to its immediate most suitable economic use, which use shall be determined after consideration of:

- (1) Immediate prior use, if any, of such property;
- (2) Location of such property;
- (3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;
- (4) Other legal restrictions on the use of such property;
- (5) Availability of water, electricity, gas, sewers, street lighting, and other public services for such property;
- (6) Size of such property;
- (7) Access of such property to public thoroughfares; and
- (8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. All lands classified as forest croplands shall not, for taxation purposes, be classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in section 4(b) of article X of the Missouri Constitution and defined in this section, but shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution.

138.430. 1. Every owner of real property or tangible personal property, **and the city assessor or county assessor for the area involved, when the appeal involves a question of law**, shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, within the time prescribed in this chapter or thirty days following the final action of the local board of equalization, whichever date

later occurs, concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property. The commission shall investigate all such appeals and shall correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious. Any person aggrieved by the decision of the commission may seek review as provided in chapter 536, RSMo.

2. In order to investigate such appeals, the commission may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property. The commission may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the commission, or based solely upon evidence presented by the parties to the commission.

3. Every owner of real property or tangible personal property shall have the right to appeal to the circuit court of the county in which the collector maintains his office, from the decision of the local board of equalization not later than thirty days after the final decision of the board of equalization concerning all questions and disputes involving the exclusion or exemption of such property from assessment or from the tax rolls pursuant to the Constitution of the United States or the constitution or laws of this state, or of the taxable situs of such property. The appeal shall be as a trial de novo in the manner prescribed for nonjury civil proceedings.

4. Upon the timely filing of an appeal as provided in this section, the state tax commission or the clerk of the circuit court, as applicable, shall send to the county collector to whom the taxes on the property involved would be due, a notice that an appeal has been filed, which notice shall contain the name and address of the taxpayer filing the appeal.

5. If the circuit court, after review of the appeal, finds that the appeal is not a proper subject for the appeal to the circuit court as provided in subsection 3 of this section, it shall transfer the appeal to the state tax commission for consideration.

140.110. **1.** The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes, as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.

2. All personal property taxes and taxes on each individual parcel of real estate on back tax books shall be paid before a county collector accepts any payment for all or any part of real or personal property taxes due and assessed on the current tax books.

242.580. All taxes provided for in sections 242.010 to 242.690 remaining unpaid after

December thirty-first of the year for which said taxes were levied shall become delinquent and bear a penalty of one percent per month, **or fractional part thereof**, on the amount of said taxes from date of delinquency until paid. In computing said penalty each fractional part of a month shall be counted as a full month.

243.370. 1. All drainage taxes provided for in this chapter, including maintenance taxes, together with all penalties for default in payment of the same, all costs in collecting the same, including a reasonable attorney's fee to be fixed by the court and taxed as costs in the action brought to enforce payment, shall from date of the levying of the same by the county commission as provided in this chapter, until paid, constitute a lien, to which only the lien of the state for state, county, school and road taxes shall be paramount, upon all of the lands assessed, and shall be collected, in the same manner as state, county and school taxes upon real estate are collected.

2. The said tax shall become delinquent if not paid on or before the thirty-first day of December of the year for which said taxes were levied, and when so delinquent shall bear [interest at the rate] **a penalty** of one percent per month, **or fractional part thereof, on the amount of said taxes from the date of delinquency** until paid[.]. **In computing said penalty**, each fractional **part of a month [being] shall be** counted as a full month.

3. The liens established and declared in this section may and shall be enforced by an action on delinquent tax bills, made and certified by the county collector which shall be instituted in the circuit court without regard to the amount of the claim within six months after December thirty-first of the year for which said taxes were levied. The suit shall be brought by the attorney for the drainage district in the name of, and to the use of, the collector of the revenue, of the county wherein the land lies, against the land or other property, on which such drainage tax has not been paid.

4. The pleadings, process, proceedings, practice and sales, in cases arising under this chapter, shall except as herein provided, be the same as in an action for the enforcement of the state's lien for delinquent general taxes upon real estate. All sales of lands made under this section shall be by the sheriff, as is now provided under the general revenue law. All sheriff's deeds executed and delivered, pursuant to this chapter, shall have the same probative force as deeds executed under judgments for delinquent general state taxes and in actions instituted under this chapter. The same abbreviations shall be allowed and the aforesaid drainage tax book shall have the same probative effect as the back tax bill has in actions for the enforcement of the state's lien for general taxes upon real estate.

5. The title acquired through any sale of lands or other property under the aforesaid proceedings shall be subject to the lien of all subsequent annual installments of drainage tax. In all suits for the collection of delinquent taxes, the judgment for said delinquent taxes and penalty shall also include all costs of suit and a reasonable attorney's fee to be fixed by the court, recoverable the same as the delinquent tax and in the same suit. The proceeds of sales made

under and by virtue of this chapter shall be paid at once to the county treasurer and shall be accounted for by him the same as the drainage taxes.

6. The drainage tax books of this district shall be prima facie evidence in all courts of all matters therein contained.

245.210. All taxes provided for in sections 245.010 to 245.280 remaining unpaid after December thirty-first of the year for which said taxes were levied shall become delinquent and bear a penalty of one percent per month, **or fractional part thereof**, on the amount of said taxes from date of delinquency until paid. In computing said penalty each fractional part of a month shall be counted as a full month.

408.620. Financial institutions, as defined in section 381.410, RSMo, which are mortgage servicers, shall pay property tax obligations which they service from escrow accounts, as defined in Title 24 Part 3500 Section 17, Code of Federal Regulations, in one annual payment before the first day of January of the year following the year for which the tax is levied. Escrow accounts established between such financial institutions and borrowers are contractually binding and may disallow the payment of property taxes more than once a year as such payments are authorized in section 50.1500, RSMo.

516.010. **1.** No action for the recovery of any lands, tenements or hereditaments, or for the recovery of the possession thereof, shall be commenced, had or maintained by any person, whether citizen, denizen, alien, resident or nonresident of this state, unless it appear that the plaintiff, his ancestor, predecessor, grantor or other person under whom he claims was seized or possessed of the premises in question, within ten years before the commencement of such action.

2. The provisions of this section and chapter 272, RSMo, notwithstanding, an action pursuant to this section shall not lie if the record owner of the real property in issue has continuously fulfilled all obligations related to ownership of the property including, but not limited to, timely remittance of all taxes due thereon.