

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 613

98TH GENERAL ASSEMBLY

1344S.06T

2015

AN ACT

To repeal sections 52.260, 65.620, 137.076, 140.170, 140.310, 140.340, 140.350, 140.405, 140.410, 140.420, and 231.444, RSMo, and to enact in lieu thereof thirteen new sections relating to the collection of property taxes.

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

Section A. Sections 52.260, 65.620, 137.076, 140.170, 140.310, 140.340, 140.350,
2 140.405, 140.410, 140.420, and 231.444, RSMo, are repealed and thirteen new sections enacted
3 in lieu thereof, to be known as sections 52.260, 65.620, 137.018, 137.076, 140.170, 140.195,
4 140.310, 140.340, 140.350, 140.405, 140.410, 140.420, and 231.444, to read as follows:

52.260. The collector in counties not having township organization shall collect on
2 behalf of the county the following fees for collecting all state, county, bridge, road, school, back
3 and delinquent, and all other local taxes, including merchants', manufacturers' and liquor and
4 beer licenses, other than ditch and levee taxes, and the fees collected shall be deposited in the
5 county general fund:

6 (1) In all counties wherein the total amount levied for any one year exceeds two hundred
7 and fifty thousand dollars and is less than three hundred and fifty thousand dollars, a fee of two
8 and one-half percent on the amount collected;

9 (2) In all counties wherein the total amount levied for any one year exceeds three
10 hundred and fifty thousand dollars and is less than [two] **three** million dollars, a fee of two and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 one-half percent on the first three hundred and fifty thousand dollars collected and one percent
12 on whatever amount may be collected over three hundred and fifty thousand dollars;

13 (3) In all counties wherein the total amount levied for any one year exceeds [two] **three**
14 million dollars, a fee of one percent on the amounts collected.

65.620. 1. Whenever any county abolishes township organization the county treasurer
2 and ex officio collector shall immediately settle his accounts as treasurer with the county
3 commission and shall thereafter perform all duties, exercise all powers, have all rights and be
4 subject to all liabilities imposed and conferred upon the county collector of revenue under
5 chapter 52 until the first Monday in March after the general election next following the
6 abolishment of township organization and until a collector of revenue for the county is elected
7 and qualified. The person elected collector at the general election as aforesaid, if that election
8 is not one for collector of revenue under chapter 52, shall serve until the first Monday in March
9 following the election and qualification of a collector of revenue under chapter 52. Upon
10 abolition of township organization a county treasurer shall be appointed to serve until the
11 expiration of the term of such officer pursuant to chapter 54.

12 2. Upon abolition of township organization, title to all property of all kinds theretofore
13 owned by the several townships of the county shall vest in the county and the county shall be
14 liable for all outstanding obligations and liabilities of the several townships.

15 3. The terms of office of all township officers shall expire on the abolition of township
16 organization and the township trustee of each township shall immediately settle his accounts with
17 the county clerk and all township officers shall promptly deliver to the appropriate county
18 officers, as directed by the county commission, all books, papers, records and property pertaining
19 to their offices.

20 **4. For a period of one calendar year following the abolition of the townships or**
21 **until the voters of the county have approved a tax levy for road and bridge purposes,**
22 **whichever occurs first, the county collector shall continue to collect a property tax on a**
23 **county-wide basis in an amount equal to the tax levied by the township that had the lowest**
24 **total tax rate in the county immediately prior to the abolishment of the townships. The**
25 **continued collection of the tax shall be considered a continuation of an existing tax and**
26 **shall not be considered a new tax levy.**

137.018. 1. As used in this section, the term "merchandise" shall include short term
2 **rentals of equipment and other merchandise offered for short term rentals by rental**
3 **companies under 532412 or 532210 of the 2012 edition of the North American Industry**
4 **Classification System as prepared by the Executive Office of the President, Office of**
5 **Management and Budget, which will subsequently or ultimately sell such merchandise or**
6 **equipment. As used in this section, the term "short term rental" shall mean rentals for a**

7 **period of less than three hundred sixty-five consecutive days, for an undefined period, or**
8 **under an open-ended contract.**

9 **2. For the purposes of article X, section 6 of the Constitution of Missouri, all**
10 **merchandise held or owned by a merchant whether or not currently subject to a short term**
11 **rental and which will subsequently or ultimately be sold shall be considered inventory and**
12 **exempt from ad valorem taxes.**

137.076. 1. In establishing the value of a parcel of real property the county assessor
2 shall consider current market conditions and previous decisions of the county board of
3 equalization, the state tax commission or a court of competent jurisdiction that affected the value
4 of such parcel. For purposes of this section, the term "current market conditions", shall include
5 the impact upon the housing market of foreclosures and bank sales.

6 **2. In establishing the value of a parcel of real property, the county assessor shall**
7 **use an income based approach for assessment of parcels of real property with federal or**
8 **state imposed restrictions in regard to rent limitations, operations requirements, or any**
9 **other restrictions imposed upon the property in connection with:**

10 **(1) The property being eligible for any income tax credits under section 42 of the**
11 **Internal Revenue Code of 1986, as amended;**

12 **(2) Property constructed with the use of the United States Department of Housing**
13 **and Urban Development HOME investment partnerships program;**

14 **(3) Property constructed with the use of incentives provided by the United States**
15 **Department of Agriculture Rural Development; or**

16 **(4) Property receiving any other state or federal subsidies provided with respect**
17 **to use of the property for housing purposes.**

18

19 **For the purposes of this subsection, the term "income based approach" shall include the**
20 **use of direct capitalization methodology and computed by dividing the net operating**
21 **income of the parcel of property by an appropriate capitalization rate not to exceed the**
22 **average of the current market data available in the county of said parcel of**
23 **property. Federal and state tax credits or other subsidies shall not be used when**
24 **calculating the capitalization rate. Upon expiration of a land use restriction agreement,**
25 **such parcel of property shall no longer be subject to this subsection.**

140.170. 1. Except for lands described in subsection 7 of this section, the county
2 collector shall cause a copy of the list of delinquent lands and lots to be printed in some
3 newspaper of general circulation published in the county for three consecutive weeks, one
4 insertion weekly, before the sale, the last insertion to be at least fifteen days prior to the fourth
5 Monday in August.

6 2. In addition to the names of all record owners or the names of all owners appearing on
7 the land tax book it is only necessary in the printed and published list to state in the aggregate
8 the amount of taxes, penalty, interest and cost due thereon, each year separately stated.

9 3. To the list shall be attached and in like manner printed and published a notice of said
10 lands and lots stating that said land and lots will be sold at public auction to discharge the taxes,
11 penalty, interest, and costs due thereon at the time of sale in or adjacent to the courthouse of such
12 county, on the fourth Monday in August next thereafter, commencing at ten o'clock of said day
13 and continuing from day to day thereafter until all are offered.

14 4. The county collector, on or before the day of sale, shall insert at the foot of the list on
15 his **or her** record a copy of the notice and certify on his **or her** record immediately following the
16 notice the name of the newspaper of the county in which the notice was printed and published
17 and the dates of insertions thereof in the newspaper.

18 5. The expense of such printing shall be paid out of the county treasury and shall not
19 exceed the rate provided for in chapter 493, relating to legal publications, notices and
20 advertisements, and the cost of printing at the rate paid by the county shall be taxed as part of the
21 costs of the sale of any land or lot contained in the list.

22 6. The county collector shall cause the affidavit of the printer, editor or publisher of the
23 newspaper in which the list of delinquent lands and notice of sale was published, as provided by
24 section 493.060, with the list and notice attached, to be recorded in the office of the recorder of
25 deeds of the county, and the recorder shall not charge or receive any fees for recording the same.

26 7. The county collector may have a separate list of such lands, without legal descriptions
27 or the names of the record owners, printed in a newspaper of general circulation published in
28 such county for three consecutive weeks before the sale of such lands for a parcel or lot of land
29 that:

30 (1) Has an assessed value of one thousand **five hundred** dollars or less and has been
31 advertised previously; or

32 (2) Is a lot in a development of twenty or more lots and such lot has an assessed value
33 of one thousand **five hundred** dollars or less. The notice shall state that legal descriptions and
34 the names of the record owners of such lands shall be posted at any county courthouse within the
35 county and the office of the county collector.

36 8. If, in the opinion of the county collector, an adequate legal description of the
37 delinquent land and lots cannot be obtained through researching the documents available through
38 the recorder of deeds, the collector may commission a professional land surveyor to prepare an
39 adequate legal description of the delinquent land and lots in question. The costs of any
40 commissioned land survey deemed necessary by the county collector shall be taxed as part of the
41 costs of the sale of any land or lots contained in the list prepared under this section.

2 **140.195. Any collector, agent of any collector, tax sale purchaser, or agent of any**
3 **tax sale purchaser performing duties under this chapter shall have the lawful right to enter**
4 **upon the land of another without being guilty of trespass, if he or she is in the course of**
5 **providing or attempting to provide notice of a tax sale or tax sale redemption rights and**
6 **it is necessary to enter upon such land to provide, serve, or post such notice.**

2 140.310. 1. The purchaser of any tract or lot of land at sale for delinquent taxes,
3 homesteads excepted, shall at any time after one year from the date of sale be entitled to the
4 immediate possession of the premises so purchased during the redemption period provided for
5 in this law, unless sooner redeemed; provided, however, any owner or occupant of any tract or
6 lot of land purchased may retain possession of said premises by making a written assignment of,
7 or agreement to pay, rent certain or estimated to accrue during such redemption period or so
8 much thereof as shall be sufficient to discharge the bid of the purchaser with interest thereon as
9 provided in the certificate of purchase.

2 2. The purchaser, his **or her** heirs or assigns may enforce his **or her** rights under said
3 written assignment or agreement in any manner now authorized or hereafter authorized by law
4 for the collection of delinquent and unpaid rent; provided further, nothing herein contained shall
5 operate to the prejudice of any owner not in default and whose interest in the tract or lot of land
6 is not encumbered by the certificate of purchase, nor shall it prejudice the rights of any occupant
7 of any tract or lot of land not liable to pay taxes thereon nor such occupant's interest in any
8 planted, growing or unharvested crop thereon.

2 3. Any additions or improvements made to any tract or lot of land by any occupant
3 thereof, as tenant or otherwise, and made prior to such tax sale, which such occupant would be
4 permitted to detach and remove from the land under his **or her** contract of occupancy shall also,
5 to the same extent, be removable against the purchaser, his **or her** heirs or assigns.

2 4. Any rent collected by the purchaser, his **or her** heirs or assigns shall operate as a
3 payment upon the amount due the holder of such certificate of purchase, and such amount or
4 amounts, together with the date paid and by whom shall be endorsed as a credit upon said
5 certificate, and which said sums shall be taken into consideration in the redemption of such land,
6 as provided for in this chapter.

2 5. Any purchaser, heirs or assigns in possession within the period of redemption against
3 whom rights of redemption are exercised shall be protected in the value of any planted, growing
4 and/or unharvested crop on the lands redeemed in the same manner as such purchaser, heirs or
5 assigns would be protected in valuable and lasting improvements made upon said lands after the
6 period of redemption and referred to in section 140.360.

30 [6. The one-year redemption period shall not apply to third-year tax sales, but the
31 ninety-day redemption period as provided in section 140.405 shall apply to such sales. There
32 shall be no redemption period for a post-third-year tax sale, or any offering thereafter.]

140.340. 1. **Upon paying the reasonable and customary costs of sale to the county collector for the use of the purchaser, his or her heirs, successors, or assigns; the owner; lienholder; or occupant of any land or lot sold for taxes, or any other persons having an interest therein, [may] shall have the absolute right to** redeem the same at any time during the one year next ensuing[, in the following manner] **and shall continue to have a defeasible right to redeem the same until such time as the tax sale purchaser acquires the deed, at which time the right to redeem shall expire, provided upon the expiration of the lien evidenced by a certificate of purchase under section 140.410 no redemption shall be required.**

9 **2. The reasonable and customary costs of sale include all costs incurred in selling and foreclosing tax liens under this chapter, and such reasonable and customary costs shall include the following:** [by paying to the county collector, for the use of the purchaser, his heirs or assigns,] the full sum of the purchase money named in [his] **the** certificate of purchase and all the [cost] **costs** of the sale, including the cost to record the certificate of purchase as required in section 140.290, the fee necessary for the collector to record the release of such certificate of purchase, and the **reasonable and customary** cost of the title search and [mailings] **postage costs** of notification required in sections 140.150 to 140.405, together with interest at the rate specified in such certificate, not to exceed ten percent annually, except on a sum paid by a purchaser in excess of the delinquent taxes due plus costs of the sale **incurred by the collector**, no interest shall be owing on the excess amount, with all subsequent taxes which have been paid thereon by the purchaser, his **or her** heirs or assigns with interest at the rate of eight percent per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption; **provided, however, that no costs incurred by tax sale purchasers in providing notice of tax sale redemption rights required by law shall be reimbursable as a reasonable and customary cost of sale unless such costs are incurred after March first following the date of purchase of the tax sale certificate by said tax sale purchaser at a first or second offering delinquent tax sale.**

27 [2.] **3.** Upon deposit with the county collector of the amount necessary to redeem as
28 herein provided, it shall be the duty of the county collector to mail to the purchaser, his **or her**
29 heirs or assigns, at the last post office address if known, and if not known, then to the address
30 of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for
31 redemption.

32 [3.] **4.** Such notice, given as herein provided, shall stop payment to the purchaser, his
33 **or her** heirs or assigns of any further interest or penalty.

34 [4. In case the party purchasing said land, his heirs or assigns fails to take a tax deed for
35 the land so purchased within six months after the expiration of the one year next following the
36 date of sale, no interest shall be charged or collected from the redemptioner after that time.]

37 **5. The reasonable and customary costs of sale needed to redeem any land or lot sold**
38 **for taxes under this section shall be determined by the collector.**

140.350. [Infants] **Minors** and incapacitated and disabled persons as defined in chapter
2 475 may redeem any lands belonging to them sold for taxes, within [one year after the expiration
3 of such disability] **five years of the date of the last payment of taxes encumbering the real**
4 **estate by the minor, incapacitated or disabled person, the party's predecessors in interest,**
5 **or any representative of such person,** in the same manner as provided in section 140.340 for
6 redemption by other persons.

140.405. 1. Any person purchasing property at a delinquent land tax auction shall not
2 acquire the deed to the real estate, as provided for in section 140.250 or 140.420, until the person
3 meets the requirements of this section, except that such requirements shall not apply to
4 post-third-year sales, which shall be conducted under subsection 4 of section 140.250. The
5 purchaser shall obtain a title search report from a licensed attorney or licensed title company
6 detailing the ownership and encumbrances on the property. [Such title search report shall be
7 declared invalid if the effective date is more than one hundred twenty days from the date the
8 purchaser applies for a collector's deed under section 140.250 or 140.420.]

9 2. At least ninety days prior to the date when a purchaser is authorized to acquire the
10 deed, the purchaser shall notify the owner of record and any person who holds a publicly
11 recorded unreleased deed of trust, mortgage, lease, lien, judgment, or any other publicly recorded
12 claim upon that real estate of such person's right to redeem the property. Notice shall be sent by
13 both first class mail and certified mail return receipt requested to such person's last known
14 available address. If the certified mail return receipt is returned signed, the first class mail notice
15 is not returned, the first class mail notice is refused where noted by the United States Postal
16 Service, or any combination thereof, notice shall be presumed received by the recipient. At the
17 conclusion of the applicable redemption period, the purchaser shall make an affidavit in
18 accordance with subsection [4] **5** of this section.

19 3. If the owner of record or the holder of any other publicly recorded claim on the
20 property intends to transfer ownership or execute any additional liens or encumbrances on the
21 property, such owner shall first redeem such property under section 140.340. The failure to
22 comply with redeeming the property first before executing any of such actions or agreements on
23 the property shall require the owner of record or any other publicly recorded claim on the
24 property to reimburse the purchaser for the total bid as recorded on the certificate of purchase
25 and all the costs of the sale required in sections 140.150 to 140.405.

26 4. In the case that both the certified notice return receipt card is returned unsigned and
27 the first class mail is returned for any reason except refusal, where the notice is returned
28 undeliverable, then the purchaser shall attempt additional notice and certify in the purchaser's
29 affidavit to the collector that such additional notice was attempted and by what means.

30 5. The purchaser shall notify the county collector by affidavit of the date that every
31 required notice was sent to the owner of record and, if applicable, any other publicly recorded
32 claim on the property. To the affidavit, the purchaser shall attach a copy of a valid title search
33 report as described in subsection 1 of this section as well as completed copies of the following
34 for each recipient:

35 (1) Notices of right to redeem sent by first class mail;

36 (2) Notices of right to redeem sent by certified mail;

37 (3) Addressed envelopes for all notices, as they appeared immediately before mailing;

38 (4) Certified mail receipt as it appeared upon its return; and

39 (5) Any returned regular mailed envelopes. As provided in this section, at such time the
40 purchaser notifies the collector by affidavit that all the ninety days' notice requirements of this
41 section have been met, the purchaser is authorized to acquire the deed, provided that a collector's
42 deed shall not be acquired before the expiration date of the redemption period as provided in
43 section 140.340.

44 6. If any real estate is purchased at a third-offering tax auction and has a publicly
45 recorded unreleased deed of trust, mortgage, lease, lien, judgment, or any other publicly recorded
46 claim upon the real estate under this section, the purchaser of said property shall within forty-five
47 days after the purchase at the sale notify such person of the person's right to redeem the property
48 within ninety days from the postmark date on the notice. Notice shall be sent by both first class
49 mail and certified mail return receipt requested to such person's last known available
50 address. The purchaser shall notify the county collector by affidavit of the date the required
51 notice was sent to the owner of record and, if applicable, the holder of any other publicly
52 recorded claim on the property, that such person shall have ninety days to redeem said property
53 or be forever barred from redeeming said property.

54 7. If the county collector chooses to have the title search done then the county collector
55 may charge the purchaser the cost of the title search before giving the purchaser a deed pursuant
56 to section 140.420.

57 8. [If the property is redeemed, the person redeeming the property shall pay the costs
58 incurred by the purchaser in providing notice under this section. Recoverable costs on any
59 property sold at a tax sale shall include the title search, postage, and costs for the recording of
60 any certificate of purchase issued and for recording the release of such certificate of purchase and
61 all the costs of the sale required in sections 140.150 to 140.405.

62 9.] Failure of the purchaser to comply with this section shall result in such purchaser's
63 loss of all interest in the real estate **except as otherwise provided in sections 140.550 and**
64 **140.570.**

65 **9. The phrase "authorized to acquire the deed" as used in this chapter shall mean**
66 **the date chosen by the tax sale purchaser that is more than the minimum redemption**
67 **period set forth in section 140.340 if the tax sale purchaser has complied with the following**
68 **requirements entitling the purchaser to the issuance of a collector's deed:**

69 **(1) Compliance with the requirements of this section to the satisfaction of the**
70 **collector;**

71 **(2) Payment of the recording fee for the collector's deed as required under section**
72 **140.410;**

73 **(3) Production of the original of the certificate of purchase as required under**
74 **section 140.420, or production of an original affidavit of lost or destroyed certificate**
75 **approved by the collector as to form and substance; and**

76 **(4) Payment of all subsequent taxes required to be paid under section 140.440.**

77 **10. Notwithstanding any provision of law to the contrary, any person except a**
78 **minor or an incapacitated or disabled person may receive notice under this section in a**
79 **foreign country or outside the United States:**

80 **(1) By any internationally agreed upon means of service that is reasonably**
81 **calculated to give notice, such as the Hague Convention on the Service Abroad of Judicial**
82 **and Extrajudicial Documents;**

83 **(2) If there is no internationally agreed upon means of service, or if an**
84 **international agreement allows service but does not specify the means, by a method that**
85 **is reasonably calculated to give notice;**

86 **(3) As set forth for the foreign country's acceptable method of service in actions in**
87 **courts of general jurisdiction;**

88 **(4) As the foreign country directs in response to a letter of request;**

89 **(5) Unless prohibited by a foreign country's law, by delivering a copy of the notice**
90 **to the person personally or using a form of mail that requires a signed receipt; or**

91 **(6) By any other means not prohibited by international agreement as approved by**
92 **the collector.**

140.410. In all cases where lands have been or may hereafter be sold for delinquent
2 taxes, penalty, interest and costs due thereon, and a certificate of purchase has been or may
3 hereafter be issued, it is hereby made the duty of such purchaser, his **or her** heirs or assigns, to
4 cause all subsequent taxes to be paid on the property purchased prior to the issuance of any
5 collector's deed, and the purchaser shall further cause a deed to be executed and placed on record

6 in the proper county all within [two years] **eighteen months** from the date of said sale; provided,
7 that on failure of said purchaser, his **or her** heirs or assigns so to do, then and in that case the
8 amount due such purchaser shall cease to be a lien on said lands so purchased as herein
9 provided. Upon the purchaser's forfeiture of all rights of the property acquired by the certificate
10 of purchase issued, and including the nonpayment of all subsequent years' taxes as described in
11 this section, it shall be the responsibility of the collector to record the cancellation of the
12 certificate of purchase in the office of the recorder of deeds of the county. Certificates of
13 purchase cannot be assigned to nonresidents or delinquent taxpayers. However, any person
14 purchasing property at a delinquent land tax sale who meets the requirements of this section,
15 prior to receiving a collector's deed, shall pay to the collector the fee necessary for the recording
16 of such collector's deed to be issued. It shall be the responsibility of the collector to record the
17 deed before delivering such deed to the purchaser of the property.

140.420. If no person shall redeem the lands sold for taxes [within the applicable
2 redemption period of one year from the date of the sale or within the ninety-day notice as
3 specified in section 140.405 for a third-year tax sale] **prior to the expiration of the right to**
4 **redeem**, at the expiration thereof, and on production of the certificate of purchase **and upon**
5 **proof satisfactory to the collector that a purchaser or his or her heirs, successors, or assigns**
6 **are authorized to acquire the deed**, the collector of the county in which the sale of such lands
7 took place shall execute to the purchaser, his **or her** heirs or assigns, in the name of the state, a
8 conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee
9 simple, subject, however, to all claims thereon for unpaid taxes except such unpaid taxes existing
10 at time of the purchase of said lands and the lien for which taxes was inferior to the lien for taxes
11 for which said tract or lot of land was sold.

231.444. 1. In addition to other levies authorized by law, the governing body of any
2 county of the third **or fourth** classification [without a township form of government having a
3 population of less than six thousand inhabitants according to the most recent decennial census]
4 may by ordinance levy and impose a tax pursuant to this section which shall not exceed the rate
5 of one dollar on each acre of real property in the county which is classified as agricultural and
6 horticultural property pursuant to section 137.016.

7 2. The proceeds of the tax authorized pursuant to this section shall be collected by the
8 county collector and remitted to the county treasurer who shall deposit such proceeds in a special
9 fund to be known as the "Special Road Rock Fund". All moneys in the special road rock fund
10 shall be appropriated by the county governing body for the sole purpose of purchasing road rock
11 to be placed on county roads within the boundaries of the county.

12 3. The ordinance levying and imposing a tax pursuant to subsection 1 of this section shall
13 not be effective unless the county governing body submits to the qualified voters of the county

14 a proposal to authorize the county governing body to levy and impose the tax at an election
15 permitted pursuant to section 115.123. The ballot of submission proposing the tax shall be in
16 substantially the following form:

17 Shall the county of (county's name) be authorized to levy and impose a tax on all
18 real property in the county which is classified as agricultural or horticultural property at a rate
19 not to exceed (rate of tax) cents per acre with all the proceeds of the tax to be placed in
20 the "Special Road Rock Fund" and used solely for the purpose of purchasing road rock to be
21 placed on county roads within the boundaries of the county?

22 YES NO

23 4. If a majority of the qualified voters of the county voting on the proposal vote "YES",
24 then the governing body of the county may by ordinance levy and impose the tax authorized by
25 this section in an amount not to exceed the rate proposed in the ballot of submission. If a
26 majority of the qualified voters of the county voting on the proposal vote "NO", then the
27 governing body of the county shall not levy and impose such tax. Nothing in this section shall
28 prohibit a rejected proposal from being resubmitted to the qualified voters of the county at an
29 election permitted pursuant to section 115.123.

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