

SENATE BILL NO. 1108

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

5342S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

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

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

Section A. Section 139.031, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 137.132 and 139.031, to read as follows: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) "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) "Overall 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. 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 subclass. If the overall level of assessment in either

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

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 overall
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.

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

2. Upon receiving [payment of current taxes under]
16 **written notice of** protest under subsection 1 of this section
17 or upon receiving from the state tax commission or the
18 circuit court notice of an appeal from the state tax
19 commission or the circuit court under section 138.430,
20 [along with] **and** full payment of the current tax bill before
21 the delinquency date, the collector shall disburse to the
22 proper official all portions of taxes not protested or not
23 disputed by the taxpayer and shall impound in a separate
24 fund all portions of such taxes which are protested or in
25 dispute. Every taxpayer protesting the payment of current
26 taxes under subsection 1 of this section shall, within

27 ninety days after filing his protest, commence an action
28 against the collector by filing a petition for the recovery
29 of the amount protested in the circuit court of the county
30 in which the collector maintains his office. If any
31 taxpayer so protesting his taxes under subsection 1 of this
32 section shall fail to commence an action in the circuit
33 court for the recovery of the taxes protested within the
34 time prescribed in this subsection, such protest shall
35 become null and void and of no effect, and the collector
36 shall then disburse to the proper official the taxes
37 impounded, and any interest earned thereon, as provided
38 above in this subsection.

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

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

59 interest earned thereon, to the appropriate officials of the
60 taxing authorities. Either party to the proceedings may
61 appeal the determination of the circuit court.

62 5. All the county collectors of taxes, and the
63 collector of taxes in any city not within a county, shall,
64 upon written application of a taxpayer, refund or credit
65 against the taxpayer's tax liability in the following
66 taxable year and subsequent consecutive taxable years until
67 the taxpayer has received credit in full for any real or
68 personal property tax mistakenly or erroneously levied
69 against the taxpayer and collected in whole or in part by
70 the collector. Such application shall be filed within three
71 years after the tax is mistakenly or erroneously paid. The
72 governing body, or other appropriate body or official of the
73 county or city not within a county, shall make available to
74 the collector funds necessary to make refunds under this
75 subsection by issuing warrants upon the fund to which the
76 mistaken or erroneous payment has been credited, or
77 otherwise.

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

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

91 earned on the investment of the taxes due the particular
92 taxing authority.

93 8. Any taxing authority may request to be notified by
94 the county collector of current taxes paid under protest.
95 Such request shall be in writing and submitted on or before
96 February first next following the delinquent date of current
97 taxes paid under protest or disputed, and the county
98 collector shall provide such information on or before March
99 first of the same year to the requesting taxing authority of
100 the taxes paid under protest and disputed taxes which would
101 be received by such taxing authority if the funds were not
102 the subject of a protest or dispute. Any taxing authority
103 may apply to the circuit court of the county or city not
104 within a county in which a collector has impounded protested
105 or disputed taxes under this section and, upon a
106 satisfactory showing that such taxing authority would
107 receive such impounded tax funds if they were not the
108 subject of a protest or dispute and that such taxing
109 authority has the financial ability and legal capacity to
110 repay such impounded tax funds in the event a decision
111 ordering a refund to the taxpayer is subsequently made, the
112 circuit court shall order, pendente lite, the disbursal of
113 all or any part of such impounded tax funds to such taxing
114 authority. The circuit court issuing an order under this
115 subsection shall retain jurisdiction of such matter for
116 further proceedings, if any, to compel restitution of such
117 tax funds to the taxpayer. In the event that any protested
118 or disputed tax funds refunded to a taxpayer were disbursed
119 to a taxing authority under this subsection instead of being
120 held and invested by the collector under subsection 7 of
121 this section, the taxpayer shall be entitled to interest on
122 all refunded tax funds, **from the date that the disputed**

123 **taxes were distributed to a taxing authority through the**
124 **date of the refund,** at the [annual] rate calculated by the
125 state treasurer and applied by the director of revenue under
126 section 32.068. This measure of interest shall only apply
127 to protested or disputed tax funds actually distributed to a
128 taxing authority pursuant to this subsection. In the event
129 of a refund of protested or disputed tax funds which remain
130 impounded by the collector, the taxpayer shall instead be
131 entitled to the interest actually earned on those refunded
132 impounded tax funds under subsection 7 of this section. Any
133 sovereign or official immunity otherwise applicable to the
134 taxing authorities is hereby waived for all purposes related
135 to this subsection, and the taxpayer is expressly authorized
136 to seek an order enforcing this provision from the circuit
137 court that originally ordered the distribution of the
138 protested or disputed funds, or directly from the state tax
139 commission, if the tax appeal that resulted in the refund
140 was heard and determined by the state tax commission.

141 9. No appeal filed from the circuit court's or state
142 tax commission's determination pertaining to the amount of
143 refund shall stay any order of refund, but the decision
144 filed by any court of last review modifying that
145 determination shall be binding on the parties, and the
146 decision rendered shall be complied with by the party
147 affected by any modification within ninety days of the date
148 of such decision. No taxpayer shall receive any interest on
149 any additional award of refund, and the collector shall not
150 receive any interest on any ordered return of refund in
151 whole or in part. **In the event that a taxpayer is entitled**
152 **to a refund, the collector shall issue the refund to the**
153 **taxpayer within fifteen days of the date that the circuit**
154 **court's or state tax commission's determination establishing**

155 the amount of the refund becomes final, and if the collector
156 does not issue the refund within fifteen days, the taxpayer
157 shall be entitled to interest on the refund at the rate
158 established by the director of revenue under section 32.065
159 for the period of time after the expiration of the fifteen
160 days and until the refund is issued, in addition to all
161 other interest due to the taxpayer under this section.

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