

SECOND REGULAR SESSION

# HOUSE BILL NO. 1087

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LINTON AND HANAWAY (Co-sponsors).

Pre-filed December 3, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3173L.01I

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### AN ACT

To repeal sections 137.115 and 138.060, RSMo, and to enact in lieu thereof four new sections relating to the assessment and levy of property taxes, with a referendum clause.

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

Section A. Sections 137.115 and 138.060, RSMo, are repealed and four new sections  
2 enacted in lieu thereof, to be known as sections 137.102, 137.115, 138.060, and 138.435, to read  
3 as follows:

**137.102. 1. Notwithstanding any other provision of law to the contrary, the  
2 assessed value of residential property, excluding any value added by new construction or  
3 improvements, owned by any person who is under the age of sixty-five years and using the  
4 property as a homestead, or owned by any person who is sixty-five years of age or older  
5 who has resided on such property for a period of less than five years, shall not increase  
6 during any two-year reassessment period by more than the consumer price index or five  
7 percent, whichever is less.**

**8 2. The assessed value of residential property, excluding any value added by new  
9 construction or improvements, owned by any person who is sixty-five years of age or older  
10 and who has used that property as a homestead for a period of five years or longer shall  
11 not increase during the period of time that person resides on that property after attaining  
12 the age of sixty-five years. Any homestead property taken or condemned through judicial  
13 proceeding by the United States, or by any political subdivision of the state of Missouri,  
14 shall exempt the owner of said homestead property under this subsection from the five-  
15 year residency eligibility requirement. Age and years of residence for purposes of this**

**EXPLANATION 6** Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 section shall be determined as of January first of each odd-numbered year; provided,  
17 however, that such information shall be provided by affidavit of the owner of homestead  
18 property by such date to the county assessor.

19 **3. The provisions of this section shall become effective on January 1, 2003, and shall**  
20 **apply to all taxable years beginning after December 31, 2002.**

137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's  
2 deputies in all counties of this state including the city of St. Louis shall annually make a list of  
3 all real and tangible personal property taxable in the assessor's city, county, town, or district.  
4 Except as otherwise provided in subsection 3 of this section, the assessor shall annually assess  
5 all personal property at thirty-three and one-third percent of its true value in money as of January  
6 first of each calendar year. The assessor shall annually assess all real property, including any  
7 new construction and improvements to real property, and possessory interests in real property  
8 at the percent of its true value in money set in subsection 5 of this section. The assessor shall  
9 annually assess all real property in the following manner: new assessed values shall be  
10 determined as of January first of each odd-numbered year and shall be entered in the assessor's  
11 books; those same assessed values shall apply in the following even-numbered year, except for  
12 new construction and property improvements which shall be valued as though they had been  
13 completed as of January first of the preceding odd-numbered year. The assessor may call at the  
14 office, place of doing business, or residence of each person required by this chapter to list  
15 property, and require the person to make a correct statement of all taxable real property in the  
16 county owned by the person, or under his or her care, charge, or management, and all taxable  
17 tangible personal property owned by the person or under his or her care, charge, or management,  
18 taxable in the county. On or before January first of each even-numbered year, the assessor shall  
19 prepare and submit a two-year assessment maintenance plan to the county governing body and  
20 the state tax commission for their respective approval or modification. The county governing  
21 body shall approve and forward such plan or its alternative to the plan to the state tax  
22 commission by February first. If the county governing body fails to forward the plan or its  
23 alternative to the plan to the state tax commission by February first, the assessor's plan shall be  
24 considered approved by the county governing body. If the state tax commission fails to approve  
25 a plan and if the state tax commission and the assessor and the governing body of the county  
26 involved are unable to resolve the differences, in order to receive state cost-share funds outlined  
27 in section 137.750, the county or the assessor shall petition the administrative hearing  
28 commission, by May first, to decide all matters in dispute regarding the assessment maintenance  
29 plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with  
30 mediation or arbitration upon terms agreed to by the parties. The final decision of the  
31 administrative hearing commission shall be subject to judicial review in the circuit court of the  
32 county involved. In the event a valuation of subclass (1) real property within any county of the

33 first classification with a charter form of government, or within a city not within a county, is  
34 made by a computer, computer-assisted method, or a computer program, the burden of proof,  
35 supported by clear, convincing, and cogent evidence to sustain such valuation, shall be on the  
36 assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there  
37 shall be a presumption that the assessment was made by a computer, computer-assisted method,  
38 or a computer program. Such evidence shall include, but shall not be limited to, the following:

39 (1) The findings of the assessor based on an appraisal of the property by generally  
40 accepted appraisal techniques; and

41 (2) The purchase prices from sales of at least three comparable properties and the address  
42 or location thereof. As used in this paragraph, the word "comparable" means that:

43 (a) Such sale was closed at a date relevant to the property valuation; and

44 (b) Such properties are not more than one mile from the site of the disputed property,  
45 except where no similar properties exist within one mile of the disputed property, the nearest  
46 comparable property shall be used. Such property shall be within five hundred square feet in size  
47 of the disputed property, and resemble the disputed property in age, floor plan, number of rooms,  
48 and other relevant characteristics.

49 2. Assessors in each county of this state and the city of St. Louis may send personal  
50 property assessment forms through the mail.

51 3. The following items of personal property shall each constitute separate subclasses of  
52 tangible personal property and shall be assessed and valued for the purposes of taxation at the  
53 following [percents] **percentages** of their true value in money:

54 (1) Grain and other agricultural crops in an unmanufactured condition, one-half of one  
55 percent;

56 (2) Livestock, twelve percent;

57 (3) Farm machinery, twelve percent;

58 (4) Motor vehicles which are eligible for registration as and are registered as historic  
59 motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five  
60 years old and which are used solely for noncommercial purposes and are operated less than fifty  
61 hours per year or aircraft that are home built from a kit, five percent;

62 (5) Poultry, twelve percent; and

63 (6) Tools and equipment used for pollution control and tools and equipment used in  
64 retooling for the purpose of introducing new product lines or used for making improvements to  
65 existing products by any company which is located in a state enterprise zone and which is  
66 identified by any standard industrial classification number cited in subdivision (6) of section  
67 135.200, RSMo, twenty-five percent.

68 4. The person listing the property shall enter a true and correct statement of the property,  
69 in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed

70 and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered  
71 to the assessor.

72 5. All subclasses of real property, as such subclasses are established in section 4(b) of  
73 article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the  
74 following percentages of true value:

75 (1) For real property in subclass (1), nineteen percent;

76 (2) For real property in subclass (2), twelve percent; and

77 (3) For real property in subclass (3), thirty-two percent.

78 6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used  
79 as dwelling units shall be assessed at the same percentage of true value as residential real  
80 property for the purpose of taxation. The percentage of assessment of true value for such  
81 manufactured homes shall be the same as for residential real property. If the county collector  
82 cannot identify or find the manufactured home when attempting to attach the manufactured home  
83 for payment of taxes owed by the manufactured home owner, the county collector may request  
84 the county commission to have the manufactured home removed from the tax books, and such  
85 request shall be granted within thirty days after the request is made; however, the removal from  
86 the tax books does not remove the tax lien on the manufactured home if it is later identified or  
87 found. A manufactured home located in a manufactured home rental park, rental community,  
88 or on real estate not owned by the manufactured home owner shall be considered personal  
89 property. A manufactured home located on real estate owned by the manufactured home owner  
90 may be considered real property.

91 7. Each manufactured home assessed shall be considered a parcel for the purpose of  
92 reimbursement pursuant to section 137.750, unless the manufactured home has been converted  
93 to real property in compliance with section 700.111, RSMo, and assessed as a realty  
94 improvement to the existing real estate parcel.

95 8. Any amount of tax due and owing based on the assessment of a manufactured home  
96 shall be included on the personal property tax statement of the manufactured home owner unless  
97 the manufactured home has been converted to real property in compliance with section 700.111,  
98 RSMo, in which case the amount of tax due and owing on the assessment of the manufactured  
99 home as a realty improvement to the existing real estate parcel shall be included on the real  
100 property tax statement of the real estate owner.

101 9. The assessor of each county and each city not within a county shall use the trade-in  
102 value published in the October issue of the National Automobile Dealers' Association Official  
103 Used Car Guide, or its successor publication, as the recommended guide of information for  
104 determining the true value of motor vehicles described in such publication. In the absence of a  
105 listing for a particular motor vehicle in such publication, the assessor shall use such information  
106 or publications which in the assessor's judgment will fairly estimate the true value in money of

107 the motor vehicle.

108       10. If the assessor increases the assessed valuation of any parcel of subclass (1) real  
109 property by more than [seventeen] **five** percent since the last assessment, excluding increases due  
110 to new construction or improvements, then the assessor shall conduct a physical inspection of  
111 such property.

112       **11. If a physical inspection is required, pursuant to subsection 10 of this section, the**  
113 **assessor shall notify the property owner of that fact in writing and shall provide the owner**  
114 **clear written notice of the owner's rights relating to the physical inspection. If a physical**  
115 **inspection is required, the property owner may request that an interior inspection be**  
116 **performed during the physical inspection. The owner shall have no less than thirty days**  
117 **to notify the assessor of a request for an interior physical inspection.**

118       **12. A physical inspection, as required by subsection 10 of this section, shall include,**  
119 **but not be limited to, an on-site personal observation and review of all exterior portions of**  
120 **the land and any buildings and improvements to which the inspector has or may**  
121 **reasonably and lawfully gain external access, and shall include an observation and review**  
122 **of the interior of any buildings or improvements on the property upon the timely request**  
123 **of the owner pursuant to subsection 11 of this section. Mere observation of the property**  
124 **via a "drive-by inspection" or the like shall not be considered sufficient to constitute a**  
125 **physical inspection as required by this section.**

138.060. 1. The county board of equalization shall, in a summary way, determine all  
2 appeals from the valuation of property made by the assessor, and shall correct and adjust the  
3 assessment accordingly. There shall be no presumption that the assessor's valuation is correct.  
4 **The assessor shall have the burden to prove that the assessor's valuation accurately reflects**  
5 **the true market value of the subject property. In the event a physical inspection of the**  
6 **subject property is required by subsection 10 of section 137.115, RSMo, the assessor shall**  
7 **have the burden to establish the manner in which the physical inspection was performed**  
8 **and shall have the burden to prove that the physical inspection was performed in**  
9 **accordance with section 137.115, RSMo. In the event the assessor fails to provide sufficient**  
10 **evidence to establish that the physical inspection was performed in accordance with section**  
11 **137.115, RSMo, the property owner shall prevail on the appeal as a matter of law. At any**  
12 hearing before the state tax commission or a court of competent jurisdiction of an appeal of  
13 assessment from a first class charter county or a city not within a county, the assessor shall not  
14 advocate nor present evidence advocating a valuation higher than that value finally determined  
15 by the assessor or the value determined by the board of equalization, whichever is higher, for that  
16 assessment period.

17       2. The county clerk shall keep an accurate record of the proceedings and orders of the  
18 board, and the assessor shall correct all erroneous assessments, and the clerk shall adjust the tax

19 book according to the orders of such board and the orders of the state tax commission, except  
20 that in adding or deducting such percent to each tract or parcel of real estate as required by such  
21 board or state tax commission, he shall add or deduct in each case any fractional sum of less than  
22 fifty cents, so that the value of any separate tract shall contain no fractions of a dollar.

**138.435. For assessments of property located within a county of the first  
2 classification with a charter form of government and with more than one million  
3 inhabitants, in the event the property owner prevails on an appeal of the assessment of  
4 property before a local board of equalization or before the state tax commission or before  
5 any court of competent jurisdiction, the property owner shall be awarded a just and  
6 reasonable amount for appraisal costs, attorney fees and expenses, and court costs  
7 associated with the appeal. For purposes of this section, the property owner shall be  
8 considered to have prevailed in the event such an appeal results in a final decision reducing  
9 the appraised value of the property to an amount less than the assessed valuation amount  
10 determined by the assessor from which the property owner appealed. The board,  
11 commission or court awarding such costs, fees and expenses shall consider the  
12 reasonableness of the costs, fees and expenses within the context of the particular case.**

Section B. This act is hereby submitted to the qualified voters of this state for approval  
2 or rejection at a special election which is hereby ordered and which shall be held and conducted  
3 on the first Tuesday in November, 2002, pursuant to the laws and constitutional provisions of  
4 this state applicable to general elections and the submission of referendum measures by initiative  
5 petitions, and this act shall become effective when approved by a majority of the votes cast  
6 thereon at such election and not otherwise.