

SECOND REGULAR SESSION

# HOUSE BILL NO. 1395

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor) AND STEFANICK (Co-sponsor).

Read 1<sup>st</sup> time February 4, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2924L.031

---

### AN ACT

To repeal sections 137.115 and 138.060, RSMo, and to enact in lieu thereof two new sections relating to property taxation.

---

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Section A. Sections 137.115 and 138.060, RSMo, are repealed and two new sections  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

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], **2005, and January first every fifth**  
11 **year thereafter** and shall be entered in the assessor's books; those same assessed values shall  
12 apply in the following even-numbered year, except for new construction and property  
13 improvements which shall be valued as though they had been completed as of January first of  
14 the preceding odd-numbered year. The assessor may call at the office, place of doing business,  
15 or residence of each person required by this chapter to list property, and require the person to  
16 make a correct statement of all taxable tangible personal property owned by the person or under

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

17 his or her care, charge or management, taxable in the county. On or before January first of each  
18 even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance  
19 plan to the county governing body and the state tax commission for their respective approval or  
20 modification. The county governing body shall approve and forward such plan or its alternative  
21 to the plan to the state tax commission by February first. If the county governing body fails to  
22 forward the plan or its alternative to the plan to the state tax commission by February first, the  
23 assessor's plan shall be considered approved by the county governing body. If the state tax  
24 commission fails to approve a plan and if the state tax commission and the assessor and the  
25 governing body of the county involved are unable to resolve the differences, in order to receive  
26 state cost-share funds outlined in section 137.750, the county or the assessor shall petition the  
27 administrative hearing commission, by May first, to decide all matters in dispute regarding the  
28 assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while  
29 the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final  
30 decision of the administrative hearing commission shall be subject to judicial review in the  
31 circuit court of the county involved. In the event a valuation of subclass (1) real property within  
32 any county with a charter form of government, or within a city not within a county, is made by  
33 a computer, computer-assisted method or a computer program, the burden of proof, supported  
34 by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at  
35 any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be  
36 a presumption that the assessment was made by a computer, computer-assisted method or a  
37 computer program. Such evidence shall include, but shall not be limited to, the following:

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

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

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

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

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

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

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

55 (2) Livestock, twelve percent;

56 (3) Farm machinery, twelve percent;

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

61 (5) Poultry, twelve percent; and

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

67 4. The person listing the property shall enter a true and correct statement of the property,  
68 in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed  
69 and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered  
70 to the assessor.

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

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

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

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

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

89 considered real property.

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

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

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

107 10. [Before the assessor may] **After December 31, 2004, no political subdivision shall**  
108 **increase the assessed valuation of any parcel of subclass (1) real property by more than [fifteen]**  
109 **five percent or the average percentage change in the personal income of Missouri for the**  
110 **five previous calendar years before that assessment period, whichever is lower, since the**  
111 **last assessment, excluding increases due to new construction or improvements or a new market**  
112 **value as determined by the sale, transfer, conveyance, or other disposition of the real**  
113 **property. In the event that any property owner whose assessed valuation increases**  
114 **requests that the assessor inspect the property, the assessor shall conduct a physical**  
115 **inspection of such property.**

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

122 12. A physical inspection, as [required] **requested** by subsection 10 of this section, shall  
123 include, but not be limited to, an on-site personal observation and review of all exterior portions  
124 of the land and any buildings and improvements to which the inspector has or may reasonably

125 and lawfully gain external access, and shall include an observation and review of the interior of  
126 any buildings or improvements on the property upon the timely request of the owner pursuant  
127 to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or  
128 the like shall not be considered sufficient to constitute a physical inspection as required by this  
129 section.

130 [13. The provisions of subsections 11 and 12 of this section shall only apply in any  
131 county with a charter form of government with more than one million inhabitants.

132 [14.] **13.** A county or city collector may accept credit cards as proper form of payment of  
133 outstanding property tax due. No county or city collector may charge surcharge for payment by  
134 credit card which exceeds the fee or surcharge charged by the credit card bank for its service.

135 [15.] **14.** The provisions of this section and sections 137.073, 138.060 and 138.100,  
136 RSMo, shall become effective January 1, 2003, for any taxing jurisdiction which has at least  
137 seventy-five percent of the land area of such jurisdiction within a county with a charter form of  
138 government with greater than one million inhabitants, and the provisions of this section and  
139 sections 137.073, 138.060 and 138.100, RSMo, shall become effective January 1, 2005, for all  
140 taxing jurisdictions in this state. Any county in this state may, by an affirmative vote of the  
141 governing body of such county, opt into the provisions of this act prior to January 1, 2005.

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 In any county with a charter form of government with a population greater than two hundred  
5 eighty thousand inhabitants but less than two hundred eighty-five thousand inhabitants, and in  
6 any county with a charter form of government with greater than one million inhabitants, and in  
7 any city not within a county, the assessor shall have the burden to prove that the assessor's  
8 valuation does not exceed the true market value of the subject property. [In such county or city,  
9 in the event a physical inspection of the subject property is required by subsection 10 of section  
10 137.115, RSMo, the assessor shall have the burden to establish the manner in which the physical  
11 inspection was performed and shall have the burden to prove that the physical inspection was  
12 performed in accordance with section 137.115, RSMo. In such county or city, in the event the  
13 assessor fails to provide sufficient evidence to establish that the physical inspection was  
14 performed in accordance with section 137.115, RSMo, the property owner shall prevail on the  
15 appeal as a matter of law.] At any hearing before the state tax commission or a court of  
16 competent jurisdiction of an appeal of assessment from a first class charter county or a city not  
17 within a county, the assessor shall not advocate nor present evidence advocating a valuation  
18 higher than that value finally determined by the assessor or the value determined by the board  
19 of equalization, whichever is higher, for that assessment period.

20           2. The county clerk shall keep an accurate record of the proceedings and orders of the  
21 board, and the assessor shall correct all erroneous assessments, and the clerk shall adjust the tax  
22 book according to the orders of such board and the orders of the state tax commission, except  
23 that in adding or deducting such percent to each tract or parcel of real estate as required by such  
24 board or state tax commission, [he] **the clerk** shall add or deduct in each case any fractional sum  
25 of less than fifty cents, so that the value of any separate tract shall contain no fractions of a  
26 dollar.