

SECOND REGULAR SESSION

HOUSE BILL NO. 1063

93RD GENERAL ASSEMBLY

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

Pre-filed December 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3407L.011

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Section A. Sections 137.115 and 138.060, RSMo, are repealed and two new sections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 and section 137.078, the assessor
5 shall annually assess all personal property at thirty-three and one-third percent of its true value
6 in money as of January first of each calendar year. The assessor shall annually assess all real
7 property, including any new construction and improvements to real property, and possessory
8 interests in real property at the percent of its true value in money set in subsection 5 of this
9 section. The assessor shall annually assess all real property in the following manner: new
10 assessed values shall be determined as of January first [of each odd-numbered year], **2007, and**
11 **January first every fifth year thereafter**, and shall be entered in the assessor's books; those
12 same assessed values shall apply in the following even-numbered year, except for new
13 construction and property improvements which shall be valued as though they had been
14 completed as of January first of the preceding odd-numbered year. The assessor may call at the
15 office, place of doing business, or residence of each person required by this chapter to list

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.

16 property, and require the person to make a correct statement of all taxable tangible personal
17 property owned by the person or under his or her care, charge or management, taxable in the
18 county. On or before January first of each even-numbered year, the assessor shall prepare and
19 submit a two-year assessment maintenance plan to the county governing body and the state tax
20 commission for their respective approval or modification. The county governing body shall
21 approve and forward such plan or its alternative to the plan to the state tax commission by
22 February first. If the county governing body fails to forward the plan or its alternative to the plan
23 to the state tax commission by February first, the assessor's plan shall be considered approved
24 by the county governing body. If the state tax commission fails to approve a plan and if the state
25 tax commission and the assessor and the governing body of the county involved are unable to
26 resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the
27 county or the assessor shall petition the administrative hearing commission, by May first, to
28 decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the
29 parties, the matter may be stayed while the parties proceed with mediation or arbitration upon
30 terms agreed to by the parties. The final decision of the administrative hearing commission shall
31 be subject to judicial review in the circuit court of the county involved. In the event a valuation
32 of subclass (1) real property within any county with a charter form of government, or within a
33 city not within a county, is made by a computer, computer-assisted method or a computer
34 program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such
35 valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the
36 assessor proves otherwise, there shall be a presumption that the assessment was made by a
37 computer, computer-assisted method or a computer program. Such evidence shall include, but
38 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] **subdivision**, 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 or
88 on real estate not owned by the manufactured home owner shall be considered personal property.
89 A manufactured home located on real estate owned by the manufactured home owner may be
90 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. [Before the assessor may] **After December 1, 2006, no political subdivision shall**
109 **increase the assessed valuation of any parcel of subclass (1) real property by more than [fifteen]**
110 **ten percent or the average percentage change in the personal income of Missouri for the five**
111 **previous calendar years before that assessment period, whichever is lower,** since the last
112 assessment, excluding increases due to new construction or improvements **or a new market**
113 **value as determined by the sale, transfer, conveyance, or other disposition of the real**
114 **property. In the event that any property owner whose assessed valuation increases**
115 **requests that the inspector inspect the property,** the assessor shall conduct a physical
116 inspection of such property.

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

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

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

133 14.] A county or city collector may accept credit cards as proper form of payment of
134 outstanding property tax or license due. No county or city collector may charge surcharge for
135 payment by credit card which exceeds the fee or surcharge charged by the credit card bank,
136 processor, or issuer for its service. A county or city collector may accept payment by electronic
137 transfers of funds in payment of any tax or license and charge the person making such payment
138 a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic
139 payment.

140 [15. The provisions of this section and sections 137.073, 138.060 and 138.100, RSMo,
141 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session,
142 shall become effective January 1, 2003, for any taxing jurisdiction within a county with a charter
143 form of government with greater than one million inhabitants, and the provisions of this section
144 and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the
145 ninety-first general assembly, second regular session, shall become effective October 1, 2004,
146 for all taxing jurisdictions in this state.] **14.** Any county or city not within a county in this state
147 may, by an affirmative vote of the governing body of such county, opt out of the provisions of
148 this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no.
149 1150 of the ninety-first general assembly, second regular session and section 137.073 as
150 modified by this act, for the next year of the general reassessment, prior to January first of any
151 year. No county or city not within a county shall exercise this opt-out provision after
152 implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo,
153 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and
154 section 137.073 as modified by this act, in a year of general reassessment. For the purposes of
155 applying the provisions of this subsection, a political subdivision contained within two or more
156 counties where at least one of such counties has opted out and at least one of such counties has
157 not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no.
158 1150 of the ninety-first general assembly, second regular session. A governing body of a city not

159 within a county or a county that has opted out under the provisions of this subsection may choose
160 to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo,
161 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session,
162 and section 137.073 as modified by this act, for the next year of general reassessment, by an
163 affirmative vote of the governing body prior to December thirty-first of any year.

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.

✓