

SECOND REGULAR SESSION

# HOUSE BILL NO. 2417

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ST. ONGE.

Read 1st time March 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5085L.01I

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### AN ACT

To amend chapter 135, RSMo, by adding thereto eighteen new sections relating to property taxation.

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

Section A. Chapter 135, RSMo, is amended by adding thereto eighteen new sections, to  
2 be known as sections 135.037, 135.039, 135.041, 135.043, 135.045, 135.047, 135.049, 135.051,  
3 135.053, 135.059, 135.061, 135.063, 135.067, 135.073, 135.075, 135.077, 135.079, and 135.083,  
4 to read as follows:

**135.037. As used in sections 135.037 to 135.083, the following terms shall mean:**

- 2       **(1) "Department", the department of revenue;**  
3       **(2) "Director", the director of revenue;**  
4       **(3) "Equity interest", the difference between the assessed value of the property by**  
5 **the county assessor's office and the total of:**  
6       **(a) All debts from the lien of mortgage, deeds of trust or security interests which**  
7 **are recorded or noted on a certificate of title before January first of the current tax year;**  
8 **and**  
9       **(b) Accumulated deferred taxes;**  
10       **(4) "Homestead", the owner occupied principal dwelling, either real or personal**  
11 **property, owned by the taxpayer and the tax lot upon which it is located for at least the**  
12 **previous five years. If the homestead is located in a multi-unit building, the homestead is**  
13 **the portion of the building actually used as the principal dwelling and its percentage of the**

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.

14 value of the common elements and of the value of the tax lot upon which it is built. The  
15 percentage is the value of the unit consisting of the homestead compared to the total value  
16 of the building exclusive of the common elements, if any;

17 (5) "Taxpayer", an individual who has filed a claim for deferral under section  
18 135.039 or individuals who have jointly filed a claim for deferral under section 135.039;

19 (6) "Tax-deferred property", the property upon which taxes are deferred under  
20 sections 135.037 to 135.083;

21 (7) "Taxes" or "property taxes", ad valorem taxes, assessments, fees and charges  
22 entered on the assessment and tax roll.

135.039. 1. An individual, or two or more individuals jointly, may elect to defer the  
2 property taxes on their homestead by filing a claim for deferral with the county assessor  
3 after January first and on or before October fifteenth of the first year in which deferral  
4 is claimed if the individual, or, in the case of two or more individuals filing a claim jointly,  
5 the older individual, is sixty years of age or older on October fifteenth of the year in which  
6 the claim is filed, or if the individual is disabled, or in the case of two or more individuals  
7 filing a claim jointly, one of the individuals is disabled. No such individual or individuals  
8 shall be eligible to defer property taxes under this section if such individual or individuals  
9 filed a valid claim for any homestead exemption credit under section 137.106, RSMo.

10 2. The county assessor shall forward each claim filed under this section to the  
11 director of revenue which shall determine if the property is eligible for deferral.

12 3. When the taxpayer elects to defer property taxes for any year by filing a claim  
13 for deferral under subsection 1 of this section, it shall have the effect of:

14 (1) Deferring the payment of the property taxes levied on the homestead for the  
15 fiscal year beginning on January first of such year;

16 (2) Continuing the deferral of the payment by the taxpayer of any property taxes  
17 deferred under sections 135.037 to 135.083 for previous years which have not become  
18 delinquent under section 135.061;

19 (3) Continuing the deferral of the payment by the taxpayer of any future property  
20 taxes for as long as the provisions of section 135.041 are met.

21 4. If a guardian or conservator has been appointed for an individual otherwise  
22 qualified to obtain deferral of taxes under sections 135.037 to 135.083, the guardian or  
23 conservator may act for such individual in complying with the provisions of sections  
24 135.037 to 135.083.

25 5. If a trustee of an inter vivos trust which was created by and is revocable by an  
26 individual, who is both the settlor and a beneficiary of the trust and who is otherwise  
27 qualified to obtain a deferral of taxes under sections 135.037 to 135.083, owns the fee

28 simple estate under a recorded instrument of sale, the trustee may act for the individual  
29 in complying with the provisions of sections 135.037 to 135.083.

30 6. Nothing in this section shall be construed to require a spouse of an individual to  
31 file a claim jointly with the individual even though the spouse may be eligible to claim the  
32 deferral jointly with the individual.

33 7. Any person aggrieved by the denial of a claim for deferral of homestead property  
34 taxes or disqualification from deferral of homestead property taxes may appeal in the  
35 manner provided for denial of a claim under section 143.841, RSMo.

135.041. In order to qualify for tax deferral under sections 135.037 to 135.083, the  
2 property shall meet all of the following requirements when the claim is filed and thereafter  
3 so long as the payment of taxes by the taxpayer is deferred:

4 (1) The property shall be the homestead of the individual or individuals who file  
5 the claim for deferral, except for an individual required to be absent from the homestead  
6 by reason of health;

7 (2) The person claiming the deferral shall, by himself or herself or together with  
8 his or her spouse, own the fee simple estate or be purchasing the fee simple estate under  
9 a recorded instrument of sale, or two or more persons shall together own or be purchasing  
10 the fee simple estate with rights of survivorship under a recorded instrument of sale if all  
11 owners live in the homestead and if all owners apply for the deferral jointly;

12 (3) There shall be no prohibition to the deferral of property taxes contained in any  
13 provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale  
14 contract or conditional sale contract for which the homestead is security;

15 (4) The equity interest in the homestead is a positive number equal to or exceeding  
16 twenty-five percent of the assessed value of the homestead; and

17 (5) The person claiming the deferral shall, by himself or herself or together with  
18 his or her spouse, show proof of insurance on the homestead in an amount equal to or  
19 exceeding the assessed value of the homestead to the director of revenue.

135.043. 1. A taxpayer's claim for deferral under section 135.039 shall be in writing  
2 on a form supplied by the department and shall:

3 (1) Describe the homestead;

4 (2) Recite facts establishing the eligibility for the deferral under the provisions of  
5 sections 135.037 to 135.083;

6 (3) Have attached any documentary proof required by the director to show that the  
7 requirements of sections 135.037 to 135.083 have been met.

8           **2. There shall be annexed to the claim a statement verified by a written declaration**  
9 **of the applicant making the claim to the effect that the statements contained in the claim**  
10 **are true.**

**135.045. 1. If eligibility for deferral of homestead property is established as**  
2 **provided in sections 135.037 to 135.083, the director of revenue shall notify the county**  
3 **assessor and the county assessor shall show on the current ad valorem assessment and tax**  
4 **roll which property is tax-deferred property by an entry clearly designating such property**  
5 **as tax-deferred property.**

6           **2. When requested by the director, the tax collector shall send to the director as**  
7 **soon as the taxes are extended upon the roll the tax statement for each tax-deferred**  
8 **property.**

9           **3. Interest shall accrue annually on the actual amount of taxes advanced to the**  
10 **county for the tax-deferred property at the rate of the average annual interest rate paid on**  
11 **any bonds or other evidence of indebtedness, plus two percent rounded up to the nearest**  
12 **whole percentage.**

**135.047. 1. In each county in which there is tax-deferred property, the director of**  
2 **revenue shall cause to be recorded in the mortgage records of the county a list of**  
3 **tax-deferred properties of that county. The list shall contain a description of the property**  
4 **as listed on the assessment roll together with the name of the owner listed thereon.**

5           **2. Except as provided in section 135.053, the recording of the tax-deferred**  
6 **properties under subsection 1 of this section is notice that the director claims a lien against**  
7 **those properties in the amount of the deferred taxes plus interest together with any fees**  
8 **paid to the county clerk in connection with the recording, release or satisfaction of the lien,**  
9 **even though the amount of taxes, interest, or fees is not listed.**

10           **3. Notwithstanding any provisions of law to the contrary, the director shall not be**  
11 **required to pay any filing, indexing or recording fees to the county in connection with the**  
12 **recording, release or satisfaction of liens against tax-deferred properties of that county in**  
13 **advance or at the time entry is made.**

**135.049. 1. Upon determining the amount of deferred taxes on tax-deferred**  
2 **property for the tax year, the director shall pay to the respective county tax collectors an**  
3 **amount equivalent to the deferred taxes less two percent thereof. Payment shall be made**  
4 **from the account established under section 135.083.**

5           **2. The director shall maintain accounts for each deferred property and shall accrue**  
6 **interest only on the actual amount of taxes advanced to the county.**

7           **3. If only a portion of taxes are deferred under section 135.065, the director shall**  
8 **pay the portion that is eligible for deferral to the tax collector and shall provide a separate**

9 notice to the county assessor stating the amount of property taxes that the director is  
10 paying.

135.051. 1. On or before December fifteenth of each year, the director of revenue  
2 shall send a notice to each taxpayer who is qualified to claim deferral of property taxes for  
3 the current tax year. The notice shall:

4 (1) Inform the taxpayer that the property taxes have or have not been deferred in  
5 the current year;

6 (2) Show the total amount of deferred taxes remaining unpaid since initial  
7 application for deferral and the interest accruing therein to November fifteenth of the  
8 current year;

9 (3) Inform the taxpayer that voluntary payment of the deferred taxes may be made  
10 at any time to the director of revenue; and

11 (4) Contain any other information that the director considers necessary to facilitate  
12 administration of the homestead deferral program.

13 2. The director shall give the notice required under subsection 1 of this section by  
14 an unsealed postcard or other form of mail sent to the residence address of the taxpayer  
15 as shown in the claim for deferral or as otherwise determined by the director to be the  
16 correct address of the taxpayer.

17 3. Any taxpayer who meets the requirements of section 135.039 and whose  
18 homestead meets the requirements of section 135.041 who has not deferred their property  
19 tax for the preceding calendar year and who has deferred in prior years shall be permitted  
20 to file the application required by section 135.043 until January thirtieth of the following  
21 calendar year.

135.053. 1. At the time that the taxpayer elects to defer property taxes under  
2 sections 135.037 to 135.083, the director of revenue shall estimate the amount of property  
3 taxes that will be deferred for tax years beginning on or after January 1, 2009, and interest  
4 thereon. Thereafter, the director shall have a lien in the amount of the estimate.

5 2. The lien created under subsection 1 of this section shall attach to the property  
6 to which the election to defer relates on January first of the tax year of initial deferral.

7 3. The lien created under subsection 1 of this section in the amount of the estimate  
8 shall have the same priority as other real property tax liens except that the lien of  
9 mortgages, trust deeds, or security interests which are recorded or noted on a certificate  
10 of title prior in time to the attachment of the lien for deferred taxes shall be before the liens  
11 for deferred taxes.

12 4. If during the period of tax deferment, the amount of taxes, interest, and fees  
13 exceeds the estimate, the director shall have a lien for the amount of the excess. The liens

14 for the excess shall attach to the property on January first of the tax year in which the  
15 excess occurs. The lien for the excess shall have the same priority as other real property  
16 tax liens, except that the lien of mortgages, trust deeds, or security interests recorded or  
17 noted on any certificate of title prior in time to the date that the director records an  
18 amendment to its estimate to reflect its lien for the excess shall be before the lien for the  
19 excess.

20       **5. Notwithstanding the provisions of section 135.047, the notice of lien for deferred**  
21 **taxes recorded as provided in section 135.047 arising on or after January 1, 2009, shall list**  
22 **the amount of the estimate of deferred taxes, interest, and fees made by the director under**  
23 **subsection 1 of this section and any amendment to the notice to reflect a lien for excess, as**  
24 **described under subsection 4 of this section, shall list the amount of the excess that the**  
25 **director claims as lien.**

26       **6. A lien created under this section may be foreclosed by the director under the law**  
27 **relating to foreclosure in civil suits or any other collection methods given the director of**  
28 **revenue. The court may award reasonable attorney fees to the prevailing party in a**  
29 **foreclosure action under this section.**

30       **7. Receipts from foreclosure proceedings shall be credited in the same manner as**  
31 **other repayments of deferred property taxes under section 135.083.**

32       **8. By means of voluntary payment made as provided under section 135.067, the**  
33 **taxpayer may limit the amount of the lien for deferred taxes created under this section. If**  
34 **the taxpayer desires that the limit be reflected in the records of the county, the taxpayer**  
35 **shall request, subject to any rules adopted by the director, that the director cause a partial**  
36 **satisfaction of the lien to be recorded in the county. Upon receipt of such a request, the**  
37 **director shall cause a partial satisfaction, in the amount of the voluntary payment, to be**  
38 **so recorded. Nothing in this subsection shall affect the priority of the liens of the director,**  
39 **as originally created under subsections 1 and 4 of this section.**

40       **9. Nothing in this section shall affect any lien arising under sections 135.037 to**  
41 **135.083 for taxes assessed before January 1, 2009.**

**135.059. Subject to section 135.063, all deferred property taxes, including accrued**  
2 **interest, become payable as provided in section 135.061 when:**

3       **(1) The taxpayer who claimed deferment of collection of property taxes on the**  
4 **homestead dies or, if there was more than one claimant, the survivor of the taxpayers who**  
5 **originally claimed deferment of collection of property taxes under section 135.039 dies;**

6       **(2) Except as provided in section 135.057, the property with respect to which**  
7 **deferment of collection of taxes is claimed is sold, or a contract to sell is entered into, or**

8 some person other than the taxpayer who claimed the deferment becomes the owner of the  
9 property;

10 (3) The tax-deferred property is no longer the homestead of the taxpayer who  
11 claimed the deferral, except in the case of a taxpayer required to be absent from such  
12 tax-deferred property by reason of health;

13 (4) The tax-deferred property, a manufactured structure or floating home, is moved  
14 out of the state; or

15 (5) Any outstanding indebtedness against the tax-deferred property is refinanced.

**135.061. 1. Whenever any of the circumstances listed in section 135.059 occurs:**

2 (1) The deferral of taxes for the assessment year in which the circumstance occurs  
3 shall continue for such assessment year; and

4 (2) The amounts of deferred property taxes, including accrued interest, for all years  
5 shall be due and payable on the date of closing or the date of probate to the director of  
6 revenue, except as provided in subsection 3 of this section, section 135.063, and section  
7 135.075.

8 2. Notwithstanding the provisions of subsection 1 of this section and section  
9 135.075, when the circumstances listed in subdivision (4) of section 135.059 occur, the  
10 amount of deferred taxes shall be due and payable five days before the date of removal of  
11 the property from the state.

12 3. If the amounts falling due as provided in this section are not paid on the  
13 indicated due date, or as extended under section 135.075 such amounts shall be deemed  
14 delinquent as of that date and the property shall be subject to foreclosure as provided in  
15 section 135.053.

**135.063. 1. Notwithstanding the provisions of section 135.059, when one of the**  
2 **circumstances listed in section 135.059 occurs, the spouse who was not eligible to or did not**  
3 **file a claim jointly with the taxpayer may continue the property in its deferred tax status**  
4 **by filing a claim within the time and in the manner provided under section 135.039 if:**

5 (1) The spouse of the taxpayer is or will be sixty years of age or older not later than  
6 six months from the day the circumstance listed in section 135.059 occurs; and

7 (2) The property is the homestead of the spouse of the taxpayer and meets the  
8 requirements of subsection 2 of section 135.041.

9 2. A spouse who does not meet the age requirements of subsection 1 of this section  
10 but is otherwise qualified to continue the property in its tax-deferred status under  
11 subsection 1 of this section may continue the deferral of property taxes deferred for  
12 previous years by filing a claim within the time and in the manner provided under section  
13 135.039. If a spouse eligible for and continuing the deferral of taxes previously deferred

14 under this subsection becomes sixty years of age before October fifteenth of any year, the  
15 spouse may elect to continue the deferral of previous years' taxes deferred under this  
16 subsection and may elect to defer the current assessment year's taxes on the homestead by  
17 filing a claim within the time and in the manner provided under section 135.039.  
18 Thereafter, payment of the taxes levied on the homestead and deferred under this  
19 subsection and payment of taxes levied on the homestead in the current assessment year  
20 and in future years may be deferred in the manner provided in and subject to sections  
21 135.037 to 135.083.

22 3. Notwithstanding that section 135.039 requires that a claim be filed no later than  
23 October fifteenth, if the director of revenue determines that good and sufficient cause exists  
24 for the failure of a spouse to file a claim under this section on or before October fifteenth,  
25 the claim may be filed within one hundred eighty days after notice of taxes due and  
26 payable under section 135.037 is mailed or delivered by the director to the taxpayer or  
27 spouse.

135.067. 1. All payments of deferred taxes shall be made to the director of revenue.

2 2. Subject to subsection 3 of this section, all or part of the deferred taxes and  
3 accrued interest may at any time be paid to the director by:

4 (1) The taxpayer or the spouse of the taxpayer;

5 (2) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer  
6 or any person having or claiming a legal or equitable interest in the property.

7 3. A person listed in subdivision (2) of subsection 2 of this section may make such  
8 payments only if no objection is made by the taxpayer within thirty days after the director  
9 deposits in the mail notice to the taxpayer of the fact that such payment has been tendered.

10 4. Any payment made under this section shall be applied first against accrued  
11 interest and any remainder against the deferred taxes. Such payment shall not affect the  
12 deferred tax status of the property. Unless otherwise provided by law, such payment shall  
13 not give the person paying the taxes any interest in the property or any claim against the  
14 estate, in the absence of a valid agreement to the contrary.

15 5. When the deferred taxes and accrued interest are paid in full and the property  
16 is no longer subject to deferral, the director shall prepare and record in the county in  
17 which the property is located a satisfaction of deferred property tax lien.

135.073. 1. At the time that the property is deeded over to the county at the  
2 conclusion of the foreclosure proceedings under chapter 141, RSMo, the court shall order  
3 the county treasurer to pay to the director of revenue from the unsegregated tax collections  
4 account the amount of deferred taxes and interest which were not collected.



5           **2. Immediately upon payment, the county treasurer shall notify the tax collector**  
6 **of the amount paid to the director for the property which has been deeded to the county.**

7           **135.075. 1. The director of revenue may extend the time for payment of the**  
8 **deferred taxes and interest accruing with respect to the taxes becoming due and payable**  
9 **under subsection 2 of section 135.061 if:**

10           **(1) The taxpayer who claimed homestead property tax deferral dies, or if a spouse**  
11 **who continued the deferral under section 135.063 dies;**

12           **(2) The homestead property becomes property of an individual or individuals:**

13           **(a) By inheritance or devise; or**

14           **(b) If the individual or individuals are heirs or devisees, as defined in section**  
15 **472.010, RSMo, in the course of settlement of the estate;**

16           **(3) The individual or individuals commence occupancy of the property as a**  
17 **principal residence on or before February fifteenth of the calendar year following the**  
18 **calendar year of death; and**

19           **(4) The individual or individuals make application to the director for an extension**  
20 **of time for payment of the deferred taxes and interest before February fifteenth of the**  
21 **calendar year following the calendar year of death.**

22           **2. (1) Subject to subdivision (2) of this subsection, an extension granted under this**  
23 **section shall be for a period not to exceed five years after February fifteenth of the**  
24 **calendar year following the calendar year of death. The terms and conditions under which**  
25 **the extension is granted shall be in accordance with a written agreement entered into by**  
26 **the director and the individual or individuals.**

27           **(2) An extension granted under this section shall terminate immediately if:**

28           **(a) The homestead property is sold or otherwise transferred by any party to the**  
29 **extension agreement;**

30           **(b) All of the heirs or devisees who are parties to the extension agreement cease to**  
31 **occupy the property as a principal residence; or**

32           **(c) The homestead property, a manufactured structure or floating home, is moved**  
**out of the state.**

**3. If the director has reason to believe that the homestead property is not sufficient**  
**security for the deferred taxes, the director may require the individual or individuals to**  
**furnish a bond conditioned upon payment of the amount extended in accordance with the**  
**terms of the extension. The bond shall not exceed an amount double the taxes with respect**  
**to which tax extension is granted.**

33           **4. During the period of extension, and until paid, the deferred taxes shall continue**  
34 **to accrue interest in the same manner and at the same rate as provided in section 135.045.**  
35 **No interest shall accrue upon interest.**

36           **5. When any taxpayer who claimed homestead property tax deferral dies, the**  
37 **spouse, heirs and devisees, as defined in section 472.010, RSMo, shall notify in writing the**  
38 **director of revenue of the taxpayer's death.**

**135.077. Nothing in sections 135.037 to 135.083 is intended to or shall be construed**  
2 **to:**

3           **(1) Prevent the collection, by foreclosure, of property taxes which become a lien**  
4 **against tax-deferred property;**

5           **(2) Defer payment of special assessments to benefitted property which assessments**  
6 **do not appear on the assessment and tax roll; or**

7           **(3) Affect any provision of any mortgage or other instrument relating to land**  
8 **requiring a person to pay property taxes.**

**135.079. After August 28, 2008, it shall be unlawful for any mortgage trust deed or**  
2 **land sale contract to contain a clause or statement which prohibits the owner from**  
3 **applying for the benefits of the deferral of homestead property taxes provided in sections**  
4 **135.037 to 135.083. Any such clause or statement in a mortgage trust deed or land sale**  
5 **contract executed after August 28, 2008, shall be void.**

**135.083. 1. There is hereby established in the state treasury the "Senior Property**  
2 **Tax Deferral Revolving Account", which shall consist of money collected under this**  
3 **section. The state treasurer shall be custodian of the account. In accordance with sections**  
4 **30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon**  
5 **appropriation, money in the account shall be used solely for the purposes in sections**  
6 **135.037 to 135.083. Notwithstanding the provisions of section 33.080, RSMo, to the**  
7 **contrary, any moneys remaining in the account at the end of the biennium shall not revert**  
8 **to the credit of the general revenue fund. The state treasurer shall invest moneys in the**  
9 **account in the same manner as other funds are invested. Any interest and moneys earned**  
10 **on such investments shall be credited to the account.**

11           **2. The moneys in the account shall be used by the director of revenue for the**  
12 **purpose of making the payments to:**

13           **(1) County tax collectors of property taxes deferred for tax years beginning on or**  
14 **after January 1, 2009, as required by section 135.049;**

15           **(2) The director for its expenses in administering the property tax and special**  
16 **assessment senior deferral programs.**

17           **3. The funds necessary to make payments under subsection 1 of this section shall**  
18 **be advanced annually to the director.**

19           **4. The senior property tax deferral revolving account may include a reserve for**  
20 **payment of department administrative expenses.**

21           **5. All sums of money received by the director of revenue under sections 135.037 to**  
22 **135.083 as repayments of deferred property taxes shall, including the interest accrued**  
23 **under section 135.045 upon receipt, be credited to the revolving account and are**  
24 **continuously appropriated to the department for the purposes of subsection 1 of this**  
25 **section.**

26           **6. If there is not sufficient money in the revolving account to make the payments**  
27 **required by subsection 1 of this section, an amount sufficient to make the required**  
28 **payments shall be transferred from the general revenue fund to the revolving account.**

29           **7. When the department determines that moneys in sufficient amounts are available**  
30 **in the revolving account, the director shall repay to the general revenue fund the amounts**  
31 **advanced as investments under subsection 2 of this section. The moneys used to repay the**  
32 **general revenue fund under this section shall not be considered as part of the calculation**  
33 **of total state revenue.**

34           **8. The account may be funded by bonds or other evidence of indebtedness in an**  
35 **amount necessary to make the payments required by this section.**

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