

FIRST REGULAR SESSION

# HOUSE BILL NO. 645

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LOVASCO.

1736H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 67.469, 67.1521, 88.856, 92.740, 139.120, 139.360, 140.150, 141.100, 141.260, and 141.910, RSMo, and to enact in lieu thereof eleven new sections relating to the collection of delinquent taxes on real property.

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

Section A. Sections 67.469, 67.1521, 88.856, 92.740, 139.120, 139.360, 140.150, 2 141.100, 141.260, and 141.910, RSMo, are repealed and eleven new sections enacted in lieu 3 thereof, to be known as sections 67.469, 67.1521, 88.856, 92.740, 139.120, 139.360, 140.150, 4 140.155, 141.100, 141.260, and 141.910, to read as follows:

67.469. A special assessment authorized under the provisions of sections 67.453 to 2 67.475 shall be a lien, from the date of the assessment, on the property against which it is 3 assessed on behalf of the city or county assessing the same to the same extent as a tax upon 4 real property. The lien may be foreclosed in the same manner as a tax upon real property by 5 land tax sale pursuant to chapter 140 or, if applicable to that county, chapter 141, or at the 6 option of the governing body, by judicial foreclosure proceeding. **However, if the lien is on a 7 principal residence, as defined in section 140.155, the lienholder shall not foreclose the 8 residence but may recover the lien through the methods authorized under section 9 140.155.** Upon the foreclosure of any such lien, whether by land tax sale or by judicial 10 foreclosure proceeding, the entire remaining assessment may become due and payable and 11 may be recoverable in such foreclosure proceeding at the option of the governing body.

67.1521. 1. A district may levy by resolution one or more special assessments against 2 real property within its boundaries, upon receipt of and in accordance with a petition signed 3 by:

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.

4 (1) Owners of real property collectively owning more than fifty percent by assessed  
5 value of real property within the boundaries of the district; and

6 (2) More than fifty percent per capita of the owners of all real property within the  
7 boundaries of the district.

8 2. The special assessment petition shall be in substantially the following form:

9 The \_\_\_\_\_ (insert name of district) Community Improvement District ("District")  
10 shall be authorized to levy special assessments against real property benefitted within the  
11 district for the purpose of providing revenue for \_\_\_\_\_ (insert general description of specific  
12 service and/or projects) in the district, such special assessments to be levied against each tract,  
13 lot or parcel of real property listed below within the district which receives special benefit as a  
14 result of such service and/or projects, the cost of which shall be allocated among this property  
15 by \_\_\_\_\_ (insert method of allocation, e.g., per square foot of property, per square foot on  
16 each square foot of improvement, or by abutting foot of property abutting streets, roads,  
17 highways, parks or other improvements, or any other reasonable method) in an amount not to  
18 exceed \_\_\_\_\_ dollars per (insert unit of measure). Such authorization to levy the special  
19 assessment shall expire on \_\_\_\_\_ (insert date). The tracts of land located in the district  
20 which will receive special benefit from this service and/or projects are: \_\_\_\_\_ (list of  
21 properties by common addresses and legal descriptions).

22 3. The method for allocating such special assessments set forth in the petition may be  
23 any reasonable method which results in imposing assessments upon real property benefitted  
24 in relation to the benefit conferred upon each respective tract, lot or parcel of real property  
25 and the cost to provide such benefit.

26 4. By resolution of the board, the district may levy a special assessment rate lower  
27 than the rate ceiling set forth in the petition authorizing the special assessment and may  
28 increase such lowered special assessment rate to a level not exceeding the special assessment  
29 rate ceiling set forth in the petition without further approval of the real property owners;  
30 provided that a district imposing a special assessment pursuant to this section may not repeal  
31 or amend such special assessment or lower the rate of such special assessment if such repeal,  
32 amendment or lower rate will impair the district's ability to pay any liabilities that it has  
33 incurred, money that it has borrowed or obligations that it has issued.

34 5. Each special assessment which is due and owing shall constitute a perpetual lien  
35 against each tract, lot or parcel of property from which it is derived. Such lien may be  
36 foreclosed in the same manner as any other special assessment lien as provided in section  
37 88.861; **however, if the lien is on a principal residence, as defined in section 140.155, the**  
38 **lienholder shall not foreclose the residence but may recover the lien through the**  
39 **methods authorized under section 140.155.** Notwithstanding the provisions of this  
40 subsection and section 67.1541 to the contrary, the county collector may, upon certification by

41 the district for collection, add each special assessment to the annual real estate tax bill for the  
42 property and collect the assessment in the same manner the collector uses for real estate taxes.  
43 Any special assessment remaining unpaid on the first day of January annually is delinquent  
44 and enforcement of collection of the delinquent bill by the county collector shall be governed  
45 by the laws concerning delinquent and back taxes. The lien may be foreclosed in the same  
46 manner as a tax upon real property by land tax sale under chapter 140 or, if applicable to that  
47 county, chapter 141; **however, if the lien is on a principal residence, as defined in section**  
48 **140.155, the lienholder shall not foreclose the residence but may recover the lien through**  
49 **the methods authorized under section 140.155.**

50 6. A separate fund or account shall be created by the district for each special  
51 assessment levied and each fund or account shall be identifiable by a suitable title. The  
52 proceeds of such assessments shall be credited to such fund or account. Such fund or account  
53 shall be used solely to pay the costs incurred in undertaking the specified service or project.

54 7. Upon completion of the specified service or project or both, the balance remaining  
55 in the fund or account established for such specified service or project or both shall be  
56 returned or credited against the amount of the original assessment of each parcel of property  
57 pro rata based on the method of assessment of such special assessment.

58 8. Any funds in a fund or account created pursuant to this section which are not  
59 needed for current expenditures may be invested by the board in accordance with applicable  
60 laws relating to the investment of funds of the city in which the district is located.

61 9. The authority of the district to levy special assessments shall be independent of the  
62 limitations and authorities of the municipality in which it is located; specifically, the  
63 provisions of section 88.812 shall not apply to any district.

88.856. Any action brought to enforce and foreclose the lien of any special tax bills  
2 provided for herein and all questions relating thereto shall be tried by the court. **However, if**  
3 **the lien is on a principal residence, as defined in section 140.155, the lienholder shall not**  
4 **foreclose the residence but may recover the lien through the methods authorized under**  
5 **section 140.155.**

92.740. 1. A suit for the foreclosure of the tax liens **on property that is not a**  
2 **principal residence, as defined in section 140.155, or a suit to recover unpaid taxes** herein  
3 provided for shall be instituted by filing in the appropriate office of the circuit clerk and with  
4 the land reutilization authority a petition, which petition shall contain a caption, a copy of the  
5 list prepared by the collector, and a prayer. Such petition without further allegation shall be  
6 deemed to be sufficient.

7 2. The caption shall be in the following form:  
8 In the Circuit Court of \_\_\_\_\_ Missouri,  
9 In the Matter of

10 Foreclosure of Liens for Delinquent Land Taxes  
 11 By Action in Rem.  
 12 Collector of Revenue of \_\_\_\_\_, Missouri, Plaintiff

13 -vs-

14 Parcels of Land Encumbered with Delinquent Tax Liens, Defendants

15 3. The petition shall conclude with a prayer:

16 (1) That all tax liens upon such real estate be foreclosed;

17 (2) That the court determine the amounts and priorities of all tax bills, together with  
 18 interest, penalties, costs, and attorney's fees; **and**

19 (3) That the court order ~~such~~:

20 (a) Real estate **that is not a principal residence, as defined in section 140.155**, to be  
 21 sold by the sheriff at public sale as provided by sections 92.700 to 92.920 and that thereafter a  
 22 report of such sale be made by the sheriff to the court for further proceedings under the  
 23 provisions of sections 92.700 to 92.920; **or**

24 (b) **Any method of collection authorized under section 140.155.**

25 4. The petition when so filed shall have the same force and effect with respect to each  
 26 parcel of real estate therein described as a separate suit instituted to foreclose the tax lien or  
 27 liens against any one of said parcels of real estate.

28 5. For each petition filed, the collector shall make available to the public a list  
 29 detailing each parcel included in the suit.

139.120. 1. The collector or collector-treasurer in a county having township  
 2 organization shall diligently endeavor and use all lawful means to collect all taxes which they  
 3 are required to collect in their respective counties, and to that end they shall have the power to  
 4 seize and sell the goods and chattels of the person liable for taxes, in the same manner as  
 5 goods and chattels are or may be required to be seized and sold under execution issued on  
 6 judgments at law~~[-and]~~. No property ~~[whatever]~~ **except principal residences, as defined in**  
 7 **section 140.155**, shall be exempt from seizure and sale for taxes due on lands or personal  
 8 property~~[-]~~, provided~~[-]~~ that no such seizure or sale for taxes shall be made until after the first  
 9 day of October of each year~~[-and]~~. The collector or collector-treasurer shall not receive a  
 10 credit for delinquent taxes until the collector or collector-treasurer shall have made affidavit  
 11 that the collector or collector-treasurer has been unable to find any personal property out of  
 12 which to make the taxes in each case so returned delinquent~~[-but]~~. No such seizure and sale  
 13 of goods shall be made until the collector or collector-treasurer has made demand for the  
 14 payment of the tax, either in person or by deputy, to the party liable to pay the same, or by  
 15 leaving a written or printed notice at his **or her** place of abode for that purpose, with some  
 16 member of the family over fifteen years of age.

17           2. Such seizure may be made at any time after the first day of October, and before  
18 said taxes become delinquent, or after they become delinquent; provided further, that when  
19 any person owing personal tax removes from one county in this state to another, it shall be the  
20 duty of the county collector, or collector-treasurer as the case may be, of the county from  
21 which such person shall move, to send a tax bill to the sheriff of the county into which such  
22 person may be found, and on receipt of the same by said sheriff, it shall be the collector's or  
23 the collector-treasurer's duty to proceed to collect said tax bill in like manner as provided by  
24 law for the collection of personal tax, for which the collector or the collector-treasurer shall  
25 be allowed the same compensation as provided by law in the collection of executions. It shall  
26 be the duty of the sheriff in such case to make due return to the collector or collector-treasurer  
27 of the county from whence said tax bill was issued, with the money collected thereon.

139.360. In case any person shall refuse or neglect to pay the tax imposed, the  
2 collector shall levy the same by distraint and sale of the goods and chattels of the person who  
3 ought to pay the same. **However, the collector shall not sell a principal residence, as**  
4 **defined in section 140.155, but may recover the tax through the methods authorized**  
5 **under section 140.155.**

140.150. 1. All lands, lots, mineral rights, and royalty interests on which taxes or  
2 special assessments are delinquent and unpaid are subject to sale to discharge the lien for the  
3 delinquent and unpaid taxes or unpaid special assessments as provided for in this chapter on  
4 the fourth Monday in August of each year. **However, if the lien is on a principal residence,**  
5 **as defined in section 140.155, the lienholder shall not sell the residence but may recover**  
6 **the lien through the methods authorized under section 140.155.**

7           2. No real property, lots, mineral rights, or royalty interests shall be sold for state,  
8 county, or city taxes or special assessments without judicial proceedings, unless the notice of  
9 sale contains the names of all record owners thereof, or the names of all owners appearing on  
10 the land tax book and all other information required by law. **However, no principal**  
11 **residence, as defined in section 140.155, shall be sold for delinquent taxes or special**  
12 **assessments, but the delinquent taxes or special assessments may be recovered through**  
13 **the methods authorized under section 140.155.** Delinquent taxes or unpaid special  
14 assessments, penalty, interest, and costs due thereon may be paid to the county collector at  
15 any time before the property is sold ~~therefor~~ **or the amounts are otherwise collected.** The  
16 collector shall send notices to the publicly recorded owner of record before any delinquent  
17 and unpaid taxes or unpaid special assessments as specified in this section subject to sale are  
18 published. The first notice shall be by first class mail. A second notice shall be sent by  
19 certified mail only if the assessed valuation of the property is greater than one thousand  
20 dollars. If the assessed valuation of the property is not greater than one thousand dollars, only  
21 the first notice shall be required. If any second notice sent by certified mail under this section

22 is returned to the collector unsigned, then notice shall be sent before the sale by first class  
23 mail to both the owner of record and the occupant of the real property. The postage for the  
24 mailing of the notices shall be paid out of the county treasury, and such costs shall be added to  
25 the costs of conducting the sale, and the county treasury shall be reimbursed to the extent that  
26 such postage costs are recovered at the sale. The failure of the taxpayer or the publicly  
27 recorded owner to receive the notice provided for in this section shall not relieve the taxpayer  
28 or publicly recorded owner of any tax liability imposed by law.

29 3. The entry in the back tax book by the county clerk of the delinquent lands, lots,  
30 mineral rights, and royalty interests constitutes a levy upon the delinquent lands, lots, mineral  
31 rights, and royalty interests for the purpose of enforcing the lien of delinquent and unpaid  
32 taxes or unpaid special assessments, together with penalty, interest and costs.

**140.155. 1. As used in this section, the term "principal residence" means a  
2 single-family residence that serves as the owner's permanent place of abode and the  
3 residence where the owner spends the most time in a calendar year.**

**4 2. Notwithstanding any law to the contrary, no political subdivision shall  
5 foreclose a person's principal residence for unpaid property taxes. However, a political  
6 subdivision may seek payment for unpaid property taxes on a principal residence by:**

**7 (1) Filing a lien on the principal residence;  
8 (2) Garnishing the wages of the owner of the principal residence; or  
9 (3) Seizing the owner's state income tax refund by notifying the department of  
10 revenue of the unpaid property taxes. If the owner is to receive a state income tax  
11 refund, the department of revenue shall send an amount of such tax refund not to exceed  
12 the amount of unpaid taxes to the political subdivision.**

141.100. The judgment, if against the defendant, shall describe the land upon which  
2 taxes are found to be due; shall state the amount of taxes and interest found to be due upon  
3 each tract or lot, and the year or years for which the same are due, up to the rendition thereof,  
4 and shall decree that the lien of the state be enforced, and that the real estate, or so much  
5 thereof as may be necessary to satisfy such judgment, interest, and costs, be sold, and a  
6 special fieri facias shall be issued thereon, subject to the provisions herein contained, which  
7 shall be executed as in other cases of special judgment and execution, and said judgment shall  
8 be a first lien upon said land. **However, no judgment shall decree a principal residence, as  
9 defined in section 140.155, be sold, but the judgment may decree any method authorized  
10 under section 140.155 for the collection of unpaid taxes on a principal residence.**

141.260. 1. Whenever it shall appear that a tax bill has been due and unpaid for a  
2 period of at least two years after the date on which, if a general tax bill, it became delinquent,  
3 or, if a special tax bill, such bill or any installment thereof became due, the tax lien,  
4 represented by such tax bill, and the tax liens of other delinquent tax bills, shall be summarily

5 foreclosed in the manner provided in sections 141.210 to 141.810. **However, if the lien is on**  
6 **a principal residence, as defined in section 140.155, the lienholder shall not foreclose the**  
7 **residence but may recover the lien through the methods authorized under section**  
8 **140.155.**

9         2. Ownership of a tax bill, or of a tax sale certificate, or certificate of purchase, or tax  
10 deed, or any other instrument or record of a tax bill not bearing evidence of cancellation or  
11 payment, by the tax district or taxing authority issuing the same, or by any other owner  
12 thereof, shall be prima facie evidence of the fact that the tax bill or tax lien represented  
13 thereby has not been paid to the tax district or to the owner of the tax bill or tax lien.

14         3. The holders of tax sale certificates, certificates of purchase, or tax deeds, issued by  
15 any municipality, shall be on a parity as to priority of liens and shall have the same rights as  
16 the taxing authorities holding or owning general tax bills for the same tax year, and may in  
17 like manner foreclose their liens under sections 141.210 to 141.810.

141.910. The judgment, if against the defendant, shall describe the land upon which  
2 taxes are found to be due; shall state the amount of taxes and interest found to be due upon  
3 each tract or lot, and the year or years for which the same are due, up to the rendition thereof  
4 [;]; and shall decree that the lien of the state be enforced, and that the real estate, or so much  
5 thereof as may be necessary to satisfy such judgment, interest and costs, be sold, and a special  
6 fieri facias shall be issued thereon, subject to the provisions herein contained, which shall be  
7 executed as in other cases of special judgment and execution, and said judgment shall be a  
8 first lien upon said land. **However, if the land upon which the taxes are due is a principal**  
9 **residence, as defined in section 140.155, the judgment shall not foreclose the residence**  
10 **but may recover the lien through the methods authorized under section 140.155.**

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