

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 678

100TH GENERAL ASSEMBLY

1578H.02P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 209.625 and 472.010, RSMo, and to enact in lieu thereof two new sections relating to the Missouri ABLE program.

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

Section A. Sections 209.625 and 472.010, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 209.625 and 472.010, to read as follows:

209.625. 1. Notwithstanding any law to the contrary, the assets of the ABLE program held by the board and the assets of any ABLE account and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from an ABLE account or deposit shall not be subject to state income tax imposed pursuant to chapter 143. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the ABLE program established pursuant to sections 209.600 to 209.645, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the ABLE program held by the board up to and including eight thousand dollars per participating taxpayer, and up to sixteen thousand dollars for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified disability expenses or are not held for the minimum length of time established by the appropriate Missouri board, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the designated beneficiary.

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.

17           3. The provisions of this section shall apply to tax years beginning on or after January  
18 1, 2015.

19           **4. The assets held in an ABLE account under sections 209.600 to 209.645 shall not**  
20 **be considered the property of a conservatorship estate established under chapter 475.**

21           **5. The provisions of subsection 4 of this section shall not apply to ABLE accounts**  
22 **in the charge and custody of a public administrator.**

472.010. When used in this code, unless otherwise apparent from the context:

2           (1) "Administrator" includes any administrator de bonis non, administrator cum  
3 testamento annexo, administrator ad litem and administrator during absence or minority;

4           (2) "Child" includes an adopted child and a child born out of wedlock, but does not  
5 include a grandchild or other more remote descendants;

6           (3) "Claims" include liabilities of the decedent which survive whether arising in contract,  
7 tort or otherwise, funeral expenses, the expense of a tombstone, and costs and expenses of  
8 administration;

9           (4) "Clerk" means clerk of the probate division of the circuit court;

10           (5) "Code" or "probate code" means chapters 472, 473, 474 and 475;

11           (6) "Court" or "probate court" means the probate division of the circuit court;

12           (7) "Devise", when used as a noun, means a testamentary disposition of real or personal  
13 property or both; when used as a verb it means to dispose of real or personal property or both by  
14 will;

15           (8) "Devisee" includes legatee;

16           (9) "Distributee" denotes those persons who are entitled to the real and personal property  
17 of a decedent under his will, under the statutes of intestate succession or who take as surviving  
18 spouse under section 474.160, upon election to take against the will;

19           (10) "Domicile" means the place in which a person has voluntarily fixed his abode, not  
20 for a mere special or temporary purpose, but with a present intention of remaining there  
21 permanently or for an indefinite time;

22           (11) "Estate" means the real and personal property of the decedent or ward, as from time  
23 to time changed in form by sale, reinvestment or otherwise, and augmented by any accretions and  
24 additions thereto and substitutions therefor, and diminished by any decreases and distributions  
25 therefrom. **Under the provisions of subsections 4 and 5 of section 209.625, assets held in an**  
26 **ABLE account established under sections 209.600 to 209.645 shall not be considered the**  
27 **property of the designated beneficiary of said account for purposes of this subdivision**  
28 **when applied in chapter 475, unless the estate is in the charge and custody of a public**  
29 **administrator;**

30 (12) "Exempt property" means that property of a decedent's estate which is not subject  
31 to be applied to the payment of claims, charges, legacies or bequests as described in section  
32 474.250;

33 (13) "Fiduciary" includes executor, administrator, guardian, conservator, and trustee;

34 (14) "Heirs" means those persons, including the surviving spouse, who are entitled under  
35 the statutes of intestate succession to the real and personal property of a decedent on his death  
36 intestate;

37 (15) "Interested persons" mean heirs, devisees, spouses, creditors or any others having  
38 a property right or claim against the estate of a decedent being administered and includes  
39 children of a protectee who may have a property right or claim against or an interest in the estate  
40 of a protectee. This meaning may vary at different stages and different parts of a proceeding and  
41 must be determined according to the particular purpose and matter involved;

42 (16) "Issue" of a person, when used to refer to persons who take by intestate succession,  
43 includes adopted children and all lawful lineal descendants, except those who are the lineal  
44 descendants of living lineal descendants of the intestate;

45 (17) "Lease" includes an oil and gas lease or other mineral lease, but does not include  
46 month-to-month or year-to-year tenancies under oral contracts;

47 (18) "Legacy" means a testamentary disposition of personal property;

48 (19) "Legatee" means a person entitled to personal property under a will;

49 (20) "Letters" include letters testamentary, letters of administration and letters of  
50 guardianship;

51 (21) "Lien" includes all liens except general judgment, execution and attachment liens;

52 (22) "Lineal descendants" include adopted children and their descendants;

53 (23) "Mortgage" includes deed of trust, vendor's lien and chattel mortgage;

54 (24) "Person" includes natural persons and corporations;

55 (25) "Personal property" includes interests in goods, money, choses in action, evidences  
56 of debt, shares of corporate stock, and chattels real;

57 (26) "Personal representative" means executor or administrator. It includes an  
58 administrator with the will annexed, an administrator de bonis non, an administrator pending  
59 contest, an administrator during minority or absence, and any other type of administrator of the  
60 estate of a decedent whose appointment is permitted. It does not include an executor de son tort;

61 (27) "Property" includes both real and personal property;

62 (28) "Real property" includes estates and interests in land, corporeal or incorporeal, legal  
63 or equitable, other than chattels real;

64 (29) "Registered mail" includes "certified mail" as defined and certified under  
65 regulations of the United States Postal Service;

66 (30) "Will" includes codicil; it also includes a testamentary instrument which merely  
67 appoints an executor and a testamentary instrument which merely revokes or revives another  
68 will.

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