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OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

March 6, 1974

OPINION LETTER NO. 148

Honorable W. O. Howard
Representative, District 49
Room 414, Capitol Building
Jefferson City, Missouri 65101

Dear Representative Howard:

This letter is in answer to your question asking:

"Does HJR #90, in any way, create a sub-class of Class 1 property as set out in Article X, Sec. 4(a) of the Missouri Constitution."

For reference purposes, we have marked House Joint Resolution No. 90 "Exhibit A" and attached a copy hereto.

In our view, it is settled law that an amendment to the Constitution will prevail over the original instrument. This rule was quoted with approval by the Missouri Supreme Court in State ex rel. Lashly v. Becker, 235 S.W. 1017, 1020 (Mo. Banc 1921), thus:

"'A clause in a constitutional amendment will prevail over a provision of the original instrument inconsistent with the amendments, for an amendment to the Constitution becomes a part of the fundamental law, and its operation and effect cannot be limited or controlled by previous Constitutions or laws that may be in conflict with it.' 12 C. J. pp. 709, 724; Grant v. Hardage, 106 Ark. loc. cit. 509, 153 S. W. 826."

Honorable W. O. Howard

Therefore, if there is any conflict the amendment controls.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General

Attachment

EXHIBIT A

HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE JOINT RESOLUTION NO. 90

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to Article X of the constitution of Missouri relating to taxation by adopting one new section relating to the same subject.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING THEREIN:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 1974, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article X of the constitution of the state of Missouri:

Section 1. Article X, constitution of Missouri, is amended by adding one new section thereto, to be known as section 7 (a), to read as follows:

Section 7(a). The general assembly by general law may provide for the valuation, assessment and taxation of land actively devoted to agricultural or horticultural use, by any method, for any period of time, and upon any term, condition or restriction as the general assembly may prescribe.