

FIRST REGULAR SESSION

HOUSE BILL NO. 102

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NANCE (Sponsor), SIFTON, GATSCHENBERGER, NOLTE,
NASHEED, DAY, ROWLAND, SCHAD, ZERR, NETH AND KIRKTON (Co-sponsors).

0297L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to the Missouri homestead preservation act.

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

Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows:

137.106. 1. This section [may] **shall** be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010;

(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to this section; or

(a) In the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to this section did not exceed the maximum upper limit; or

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 (b) In the case of joint ownership by unmarried persons or ownership by tenancy in
18 common by two or more unmarried persons, such owners shall be considered an eligible owner
19 if each person with an ownership interest individually satisfies the eligibility requirements for
20 an individual eligible owner under this section and the combined income of all individuals with
21 an interest in the property is equal to or less than the maximum upper limit in the year prior to
22 completing an application under this section. If any individual with an ownership interest in the
23 property fails to satisfy the eligibility requirements of an individual eligible owner or if the
24 combined income of all individuals with interest in the property exceeds the maximum upper
25 limit, then all individuals with an ownership interest in such property shall be deemed ineligible
26 owners regardless of such other individual's ability to individually meet the eligibility
27 requirements; or

28 (c) In the case of property held in trust, the eligible owner and recipient of the tax credit
29 shall be the trust itself provided the previous owner of the homestead or the previous owner's
30 spouse: is the settlor of the trust with respect to the homestead; currently resides in such
31 homestead; and but for the transfer of such property would have satisfied the age, ownership, and
32 maximum upper limit requirements for income as defined in [subdivisions (7) and (8) of] this
33 subsection; No individual shall be an eligible owner if the individual has not paid [their] **the**
34 **individual's** property tax liability, if any, in full by the payment due date in any of the three prior
35 tax years, except that a late payment of a property tax liability in any prior year shall not
36 disqualify a potential eligible owner if such owner paid in full the tax liability and any and all
37 penalties, additions and interest that arose as a result of such late payment; no individual shall
38 be an eligible owner if such person filed a valid claim for the senior citizens property tax relief
39 credit pursuant to sections 135.010 to 135.035;

40 (5) "Homestead", as such term is defined pursuant to section 135.010, except as limited
41 by provisions of this section to the contrary. No property shall be considered a homestead if such
42 property was improved since the most recent annual assessment by more than five percent of the
43 prior year appraised value, except where an eligible owner of the property has made such
44 improvements to accommodate a disabled person;

45 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest
46 hundredth of a percent, which shall be equal to the percentage increase to tax liability, not
47 including improvements, of a homestead from one tax year to the next that exceeds a certain
48 percentage set pursuant to subsection 10 of this section. [For applications filed in 2005 or 2006,
49 the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005.
50 For applications filed between April 1, 2005, and September 30, 2006, an eligible owner, who
51 otherwise satisfied the requirements of this section, shall not apply for the homestead exemption
52 credit more than once during such period. For applications filed after 2006, the homestead

53 exemption limit shall be based on the increase to tax liability from two years prior to application
54 to the year immediately prior to application. For applications filed between December 31, 2008,
55 and December 31, 2011, the homestead exemption limit shall be based on the increase in tax
56 liability from the base year to the year prior to the application year.] For applications filed on
57 or after January 1, 2012, the homestead exemption limit shall be based on the increase to tax
58 liability from two years prior to application to the year immediately prior to application. For
59 purposes of this subdivision, the term "base year" means the year prior to the first year in which
60 the eligible owner's application was approved, or 2006, whichever is later;

61 (7) "Income", federal adjusted gross income, and in the case of ownership of the
62 homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust
63 for purposes of determining eligibility with regards to the maximum upper limit;

64 (8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy
65 thousand dollars; in each successive calendar year this amount shall be raised by the incremental
66 increase in the general price level, as defined pursuant to article X, section 17 of the Missouri
67 Constitution.

68 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax
69 year, the property tax liability on any parcel of subclass (1) real property increased by more than
70 the homestead exemption limit, without regard for any prior credit received due to the provisions
71 of this section, then any eligible owner of the property shall receive a homestead exemption
72 credit to be applied in the current tax year property tax liability to offset the prior year increase
73 to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is
74 limited by the provisions of this section. The amount of the credit shall be listed separately on
75 each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's
76 bill. The homestead exemption credit shall not affect the process of setting the tax rate as
77 required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in
78 any prior, current, or subsequent tax year.

79 4. [If application is made in 2005, any potential eligible owner may apply for the
80 homestead exemption credit by completing an application through their local assessor's office.
81 Applications may be completed between April first and September thirtieth of any tax year in
82 order for the taxpayer to be eligible for the homestead exemption credit in the tax year next
83 following the calendar year in which the homestead exemption credit application was completed.
84 The application shall be on forms provided to the assessor's office by the department. Forms also
85 shall be made available on the department's Internet site and at all permanent branch offices and
86 all full-time, temporary, or fee offices maintained by the department of revenue.

87 The applicant shall attest under penalty of perjury:

88 (1) To the applicant's age;

89 (2) That the applicant's prior year income was less than the maximum upper limit;

90 (3) To the address of the homestead property; and

91 (4) That any improvements made to the homestead, not made to accommodate a disabled
92 person, did not total more than five percent of the prior year appraised value. The applicant shall
93 also include with the application copies of receipts indicating payment of property tax by the
94 applicant for the homestead property for the two prior tax years.

95 5. If application is made in 2005, the assessor, upon request for an application, shall:

96 (1) Certify the parcel number and owner of record as of January first of the homestead,
97 including verification of the acreage classified as residential on the assessor's property record
98 card;

99 (2) Obtain appropriate prior tax year levy codes for each homestead from the county
100 clerks for inclusion on the form;

101 (3) Record on the application the assessed valuation of the homestead for the current tax
102 year, and any new construction or improvements for the current tax year; and

103 (4) Sign the application, certifying the accuracy of the assessor's entries.

104 6. If application is made after 2005,] Any potential eligible owner may apply for the
105 homestead exemption credit by completing an application. Applications may be completed
106 between April first and October fifteenth of any tax year in order for the taxpayer to be eligible
107 for the homestead exemption credit in the tax year next following the calendar year in which the
108 homestead exemption credit application was completed. The application shall be on forms
109 provided by the department. Forms also shall be made available on the department's Internet site
110 and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the
111 department of revenue. The applicant shall attest under penalty of perjury:

112 (1) To the applicant's age;

113 (2) That the applicant's prior year income was less than the maximum upper limit;

114 (3) To the address of the homestead property;

115 (4) That any improvements made to the homestead, not made to accommodate a disabled
116 person, did not total more than five percent of the prior year appraised value[; and

117 (5)].

118

119 The applicant shall also include with the application copies of receipts indicating payment of
120 property tax by the applicant for the homestead property for the three prior tax years.

121 [7.] 5. Each applicant shall send the application to the department by October fifteenth
122 of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year
123 next following the calendar year in which the application was completed.

124 [8. If application is made in 2005, upon receipt of the applications, the department shall
125 calculate the tax liability, adjusted to exclude new construction or improvements verify
126 compliance with the maximum income limit, verify the age of the applicants, and make
127 adjustments to these numbers as necessary on the applications. The department also shall
128 disallow any application where the applicant has also filed a valid application for the senior
129 citizens property tax credit, pursuant to sections 135.010 to 135.035. Once adjusted tax liability,
130 age, and income are verified, the director shall determine eligibility for the credit, and provide
131 a list of all verified eligible owners to the county collectors or county clerks in counties with a
132 township form of government by December fifteenth of each year. By January fifteenth, the
133 county collectors or county clerks in counties with a township form of government shall provide
134 a list to the department of any verified eligible owners who failed to pay the property tax due for
135 the tax year that ended immediately prior. Such eligible owners shall be disqualified from
136 receiving the credit in the current tax year.

137 9. If application is made after 2005,] 6. Upon receipt of the applications, the department
138 shall calculate the tax liability, verify compliance with the maximum income limit, verify the age
139 of the applicants, and make adjustments to these numbers as necessary on the applications. The
140 department also shall disallow any application where the applicant also has filed a valid
141 application for the senior citizens property tax credit under sections 135.010 to 135.035. Once
142 adjusted tax liability, age, and income are verified, the director shall determine eligibility for the
143 credit and provide a list of all verified eligible owners to the county assessors or county clerks
144 in counties with a township form of government by December fifteenth of each year. By January
145 fifteenth, the county assessors shall provide a list to the department of any verified eligible
146 owners who made improvements not for accommodation of a disability to the homestead and the
147 dollar amount of the assessed value of such improvements. If the dollar amount of the assessed
148 value of such improvements totaled more than five percent of the prior year appraised value,
149 such eligible owners shall be disqualified from receiving the credit in the current tax year.

150 [10.] 7. The director shall calculate the level of appropriation necessary to set the
151 homestead exemption limit at five percent when based on a year of general reassessment or at
152 two and one-half percent when based on a year without general reassessment for the homesteads
153 of all verified eligible owners, and provide such calculation to the speaker of the house of
154 representatives, the president pro tempore of the senate, and the director of the office of budget
155 and planning in the office of administration by January thirty- first of each year.

156 [11. For applications made in 2005, the general assembly shall make an appropriation
157 for the funding of the homestead exemption credit that is signed by the governor, then the
158 director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall
159 be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a

160 percent, which, if applied to all homesteads of verified eligible owners who applied for the
161 homestead exemption credit in the immediately prior tax year, would cause all but one-quarter
162 of one percent of the amount of the appropriation, minus any withholding by the governor, to be
163 distributed during that fiscal year. The remaining one- quarter of one percent shall be distributed
164 to the county assessment funds of each county on a proportional basis, based on the number of
165 eligible owners in each county; such one- quarter percent distribution shall be delineated in any
166 such appropriation as a separate line item in the total appropriation. If no appropriation is made
167 by the general assembly during any tax year or no funds are actually distributed pursuant to any
168 appropriation therefor, then no homestead preservation credit shall apply in such year.

169 12. After setting the homestead exemption limit for applications made in 2005, the
170 director shall apply the limit to the homestead of each verified eligible owner and calculate the
171 credit to be associated with each verified eligible owner's homestead, if any. The director shall
172 send a list of those eligible owners who are to receive the homestead exemption credit, including
173 the amount of each credit, the certified parcel number of the homestead, and the address of the
174 homestead property, to the county collectors or county clerks in counties with a township form
175 of government by August thirty-first.

176 Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute
177 the appropriation and assessment fund allocation to the county collector's funds of each county
178 or the treasurer ex officio collector's fund in counties with a township form of government where
179 recipients of the homestead exemption credit are located, so as to exactly offset each homestead
180 exemption credit being issued, plus the one-quarter of one percent distribution for the county
181 assessment funds. As a result of the appropriation, in no case shall a political subdivision receive
182 more money than it would have received absent the provisions of this section plus the one-
183 quarter of one percent distribution for the county assessment funds. Funds, at the direction of
184 the county collector or the treasurer ex officio collector in counties with a township form of
185 government, shall be deposited in the county collector's fund of a county or the treasurer ex
186 officio collector's fund or may be sent by mail to the collector of a county, or the treasurer ex
187 officio collector in counties with a township form of government, not later than October first in
188 any year a homestead exemption credit is appropriated as a result of this section and shall be
189 distributed as moneys in such funds are commonly distributed from other property tax revenues
190 by the collector of the county or the treasurer ex officio collector of the county in counties with
191 a township form of government, so as to exactly offset each homestead exemption credit being
192 issued. In counties with a township form of government, the county clerk shall provide the
193 treasurer ex officio collector a summary of the homestead exemption credit for each township
194 for the purpose of distributing the total homestead exemption credit to each township collector
195 in a particular county.

196 13.] **8.** If, in any given year [after 2005], the general assembly [shall make] **makes** an
197 appropriation for the funding of the homestead exemption credit that is signed by the governor,
198 then the director shall determine the apportionment percentage by equally apportioning the
199 appropriation among all eligible applicants on a percentage basis. If no appropriation is made
200 by the general assembly during any tax year or no funds are actually distributed pursuant to any
201 appropriation therefor, then no homestead preservation credit shall apply in such year.

202 [14.] **9.** After determining the apportionment percentage, the director shall calculate the
203 credit to be associated with each verified eligible owner's homestead, if any. The director shall
204 send a list of those eligible owners who are to receive the homestead exemption credit, including
205 the amount of each credit, the certified parcel number of the homestead, and the address of the
206 homestead property, to the county collectors or county clerks in counties with a township form
207 of government by August thirty-first. Pursuant to such calculation, the director shall instruct the
208 state treasurer as to how to distribute the appropriation to the county collector's fund of each
209 county where recipients of the homestead exemption credit are located, so as to exactly offset
210 each homestead exemption credit being issued. As a result of the appropriation, in no case shall
211 a political subdivision receive more money than it would have received absent the provisions of
212 this section. Funds, at the direction of the collector of the county or treasurer ex officio collector
213 in counties with a township form of government, shall be deposited in the county collector's fund
214 of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector
215 in counties with a township form of government, not later than October first in any year a
216 homestead exemption credit is appropriated as a result of this section and shall be distributed as
217 moneys in such funds are commonly distributed from other property tax revenues by the collector
218 of the county or the treasurer ex officio collector of the county in counties with a township form
219 of government, so as to exactly offset each homestead exemption credit being issued.

220 [15.] **10.** The department shall promulgate rules for implementation of this section. Any
221 rule or portion of a rule, as that term is defined in section 536.010, that is created under the
222 authority delegated in this section shall become effective only if it complies with and is subject
223 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
224 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
225 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
226 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
227 or adopted after August 28, [2004] **2011**, shall be invalid and void. Any rule promulgated by the
228 department shall in no way impact, affect, interrupt, or interfere with the performance of the
229 required statutory duties of any county elected official, more particularly including the county
230 collector when performing such duties as deemed necessary for the distribution of any homestead
231 appropriation and the distribution of all other real and personal property taxes.

232 [16.] **11.** In the event that an eligible owner dies or transfers ownership of the property
233 after the homestead exemption limit has been set in any given year, but prior to January first of
234 the year in which the credit would otherwise be applied, the credit shall be void and any
235 corresponding moneys[, pursuant to subsection 12 of this section,] shall lapse to the state to be
236 credited to the general revenue fund. In the event the collector of the county or the treasurer ex
237 officio collector of the county in counties with a township form of government determines prior
238 to issuing the credit that the individual is not an eligible owner because the individual did not pay
239 the prior three years' property tax liability in full, the credit shall be void and any corresponding
240 moneys[, under subsection 11 of this section,] shall lapse to the state to be credited to the general
241 revenue fund.

242 [17.] **12.** This section shall apply to all tax years beginning on or after January 1, [2005]
243 **2012.** [This subsection shall become effective June 28, 2004.

244 18. In accordance with the provisions of sections 23.250 to 23.298 and unless otherwise
245 authorized pursuant to section 23.253:

246 (1) Any new program authorized under the provisions of this section shall automatically
247 sunset six years after the effective date of this section; and

248 (2) This section shall terminate on September first of the year following the year in
249 which any new program authorized under this section is sunset, and the revisor of statutes shall
250 designate such sections and this section in a revision bill for repeal.] **13. Under section 23.253**
251 **of the Missouri sunset act:**

252 (1) **The provisions of the new program authorized under this section shall**
253 **automatically sunset on December thirty-first four years after the effective date of this**
254 **section unless reauthorized by an act of the general assembly; and**

255 (2) **If such program is reauthorized, the program authorized under this section**
256 **shall automatically sunset on December thirty-first four years after the effective date of the**
257 **reauthorization of this; and**

258 (3) **This section shall terminate on September first of the calendar year immediately**
259 **following the calendar year in which the program authorized under this section is sunset.**