

FIRST REGULAR SESSION

# HOUSE BILL NO. 229

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor), LEMBKE, LeVOTA, MUNZLINGER,  
BIVINS AND SANDER (Co-sponsors).

Read 1<sup>st</sup> time January 13, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0794L.011

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### AN ACT

To repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to the homestead exemption for the elderly.

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Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows: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

(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 subsection 4 of this section; 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

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.

13 have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least  
14 sixty-five years old and the other spouse is at least sixty years old, and the combined income of  
15 the couple in the year prior to completing an application pursuant to subsection 4 of this section  
16 did not exceed the maximum upper limit; no individual shall be an eligible owner if the  
17 individual has not paid [their] **his or her** property tax liability, if any, in full by the payment due  
18 date in any of the three prior tax years, except that a late payment of a property tax liability in any  
19 prior year[, not including the year in which the application was completed,] shall not disqualify  
20 a potential eligible owner if such owner paid in full the tax liability and any and all penalties,  
21 additions and interest that arose as a result of such late payment; no individual shall be an  
22 eligible owner if such person [qualifies] **filed a valid claim** for the senior citizens property tax  
23 relief credit pursuant to sections 135.010 to 135.035, RSMo;

24 (5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as  
25 limited by provisions of this section to the contrary. No property shall be considered a  
26 homestead if such property was improved since the most recent annual assessment by more than  
27 five percent of the prior year appraised value;

28 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest  
29 hundredth of a percent, which shall be equal to the percentage increase to tax liability, not  
30 including improvements, of a homestead from one tax year to the next that exceeds a certain  
31 percentage set pursuant to subsection [8] **10** of this section. **For applications filed in 2005 and**  
32 **2006, the limit shall be based on the increase to tax liability from 2004 to 2005. For**  
33 **applications filed after 2006, the limit shall be based on the increase to tax liability from**  
34 **two years prior to application to the year immediately prior to application;**

35 (7) "Income", federal adjusted gross income;

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

40 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax  
41 year, the property tax liability on any parcel of subclass (1) real property increased by more than  
42 the homestead exemption limit, without regard for any prior credit received due to the provisions  
43 of this section, then any eligible owner of the property shall receive a homestead exemption  
44 credit to be applied in the current tax year property tax liability to offset the prior year increase  
45 to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is  
46 limited by the provisions of this section. The amount of the credit shall be listed separately on  
47 each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's  
48 bill. The homestead exemption credit shall not affect the process of setting the tax rate as

49 required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in  
50 any prior, current, or subsequent tax year.

51 **4. If application is made during calendar year 2005**, any potential eligible owner may  
52 apply for the homestead exemption credit by completing an application through [their] **his or her**  
53 local assessor's office. Applications may be completed between April first and September  
54 thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption  
55 credit in the tax year next following the calendar year in which the homestead exemption credit  
56 application was completed. The application shall be on forms provided to the assessor's office  
57 by the department. Forms also shall be made available on the department's Internet site and at  
58 all permanent branch offices and all full-time, temporary, or fee offices maintained by the  
59 department of revenue. The applicant shall attest under penalty of perjury:

- 60 (1) To the applicant's age;  
61 (2) That the applicant's prior year income was less than the maximum upper limit;  
62 (3) To the address of the homestead property; and  
63 (4) That any improvements made to the homestead did not total more than five percent  
64 of the prior year appraised value.

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66 The applicant shall also include with the application copies of receipts indicating payment of  
67 property tax by the applicant for the homestead property for the two prior tax years.

68 **5. If application is made during calendar year 2005**, the assessor, upon receiving an  
69 application, shall:

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

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

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

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

78 **6. If application is made after calendar year 2005, any potential eligible owner may**  
79 **apply for the homestead exemption credit by completing an application. Applications may**  
80 **be completed between April first and September thirtieth of any tax year in order for the**  
81 **taxpayer to be eligible for the homestead exemption credit in the tax year next following**  
82 **the calendar year in which the homestead exemption credit application was completed.**  
83 **The application shall be on forms provided by the department. Forms shall also be**  
84 **available on the department's Internet site, at all permanent branch offices, and at all full-**

85 **time, temporary, or fee offices maintained by the department. The applicant shall attest**  
86 **under penalty of perjury:**

87 **(1) To the applicant's age;**

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

89 **(3) To the address of the homestead property; and**

90 **(4) That any improvements made to the homestead did not total more than five**  
91 **percent of the prior year appraised value. The applicant shall also include with the**  
92 **application copies of receipts indicating payment of property tax by the applicant for the**  
93 **homestead property for each of the three prior tax years.**

94 **7.** Each applicant shall send the application to the department by September thirtieth of  
95 each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next  
96 following the calendar year in which the application was completed.

97 **[7.] 8. If application is made in calendar year 2005,** upon receipt of the applications,  
98 the department shall calculate the tax liability, adjusted to exclude new construction or  
99 improvements, verify compliance with the maximum income limit, verify the age of the  
100 applicants, and make adjustments to these numbers as necessary on the applications. The  
101 department also shall disallow any application where the applicant has also filed a valid  
102 application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035,  
103 RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine  
104 eligibility for the credit, and provide a list of all verified eligible owners to the county collectors  
105 or county clerks in counties with a township form of government by December fifteenth of each  
106 year. By January fifteenth, the county collectors or county clerks in counties with a township  
107 form of government shall provide a list to the department of any verified eligible owners who  
108 failed to pay the property tax due for the tax year that ended immediately prior. Such eligible  
109 owners shall be disqualified from receiving the credit in the current tax year.

110 **[8.] 9. If application is made after calendar year 2005, upon receipt of the**  
111 **applications, the department shall calculate the tax liability, verify compliance with the**  
112 **maximum income limit, verify the age of the applicants, and make adjustments to such**  
113 **numbers as necessary on the applications. The department shall disallow any application**  
114 **in any case in which the applicant has also filed a valid application for the senior citizens**  
115 **property tax credit under sections 135.010 to 135.035, RSMo. Upon the verification of**  
116 **adjusted tax liability, age, and income, the director shall determine eligibility for the credit**  
117 **and provide a list of all verified eligible owners to the county assessors or county clerks in**  
118 **counties with a township form of government by December fifteenth of each year. By**  
119 **January fifteenth, the county assessors shall provide a list to the department of any verified**  
120 **eligible owners who made improvements to the homestead and the dollar amount of the**

121 **assessed value of such improvements; if the dollar amount of the assessed value of such**  
122 **improvements totaled more than five percent of the prior year appraised value, such**  
123 **eligible owners shall be disqualified from receiving the credit for the current tax year.**

124 **10.** The director shall calculate the level of appropriation necessary to set the homestead  
125 exemption limit at five percent when based on a year of general reassessment or at two and  
126 one-half percent when based on a year without general reassessment for the homesteads of all  
127 verified eligible owners, and provide such calculation to the speaker of the house of  
128 representatives, the president pro tempore of the senate, and the director of the office of budget  
129 and planning in the office of administration by January thirty-first of each year.

130 [9.] **11.** If, in any given year, the general assembly shall make an appropriation for the  
131 funding of the homestead exemption credit that is signed by the governor, then the director shall,  
132 by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single,  
133 statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent,  
134 which, if applied to all homesteads of verified eligible owners who applied for the homestead  
135 exemption credit in the immediately prior tax year, would cause all but one-quarter of one  
136 percent of the amount of the appropriation, minus any withholding by the governor, to be  
137 distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed  
138 to the county assessment funds of each county on a proportional basis, based on the number of  
139 eligible owners in each county; such one-quarter percent distribution shall be delineated in any  
140 such appropriation as a separate line item in the total appropriation. If no appropriation is made  
141 by the general assembly during any tax year or no funds are actually distributed pursuant to any  
142 appropriation therefor, then no homestead preservation credit shall apply in such year.

143 [10.] **12.** After setting the homestead exemption limit, the director shall apply the limit  
144 to the homestead of each verified eligible owner and calculate the credit to be associated with  
145 each verified eligible owner's homestead, if any. The director shall send a list of those eligible  
146 owners who are to receive the homestead exemption credit, including the amount of each credit,  
147 the certified parcel number of the homestead, and the address of the homestead property, to the  
148 county collectors or county clerks in counties with a township form of government by August  
149 thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how  
150 to distribute the appropriation to the county [collector's funds] **general revenue fund** of each  
151 county where recipients of the homestead exemption credit are located, so as to exactly offset  
152 each homestead exemption credit being issued, plus the one-quarter of one percent distribution  
153 for the county assessment funds. As a result of the appropriation, in no case shall a political  
154 subdivision receive more money than it would have received absent the provisions of this section  
155 plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the  
156 direction of the county collector **or county clerk in counties with a township form of**

157 **government**, shall be deposited in the [county collector's] **general revenue** fund of a county or  
158 may be sent by mail to the collector of a county **or treasurer/ex officio collector in counties**  
159 **with a township form of government** not later than October first in any year a homestead  
160 exemption credit is appropriated as a result of this section and shall be distributed as moneys in  
161 such funds are commonly distributed from other property tax revenues **by the collector of the**  
162 **county or the treasurer/ex officio collector of the county in counties with a township form**  
163 **of government**, so as to exactly offset each homestead exemption credit being issued.

164 [11.] **13.** The department shall promulgate rules for implementation of this section. Any  
165 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under  
166 the authority delegated in this section shall become effective only if it complies with and is  
167 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo.  
168 This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
169 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
170 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
171 authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any  
172 rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the  
173 performance of the required statutory duties of any county elected official, more particularly  
174 including the county collector when performing such duties as deemed necessary for the  
175 distribution of any homestead appropriation and the distribution of all other real and personal  
176 property taxes.

177 [12.] **14.** In the event that an eligible owner dies or transfers ownership of the property  
178 after the homestead exemption limit has been set in any given year, but prior to [the mailing of  
179 the tax bill] **January first of the year in which the credit would otherwise be applied**, the  
180 credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section,  
181 shall lapse to the state to be credited to the general revenue fund. **In the event the collector of**  
182 **the county or the treasurer/ex officio collector of the county in counties with a township**  
183 **form of government determines prior to issuing the credit that the individual is not an**  
184 **eligible owner due to the individual's nonpayment of the prior three years property tax**  
185 **liability in full, the credit shall be void and any corresponding moneys, pursuant to**  
186 **subsection 10 of this section, shall lapse to the state to be credited to the general revenue**  
187 **fund.**

188 [13.] **15.** This section shall apply to all tax years beginning on or after January 1, 2005.  
189 This subsection shall become effective June 28, 2004.

190 [14.] **16.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and  
191 unless otherwise authorized pursuant to section 23.253, RSMo:

192 (1) Any new program authorized under the provisions of this section shall automatically

193 sunset six years after [the effective date of this section] **August 28, 2004**; and  
194 (2) This section shall terminate on September first of the year following the year in  
195 which any new program authorized under this section is sunset, and the revisor of statutes shall  
196 designate such sections and this section in a revision bill for repeal.