

FIRST REGULAR SESSION

# HOUSE BILL NO. 816

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor), STEVENSON, LEMBKE, PORTWOOD,  
NIEVES, DAY, SCHNEIDER, AVERY, MAY, DEEKEN, WETER AND KINGERY (Co-sponsors).

Read 1<sup>st</sup> time March 17, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2067L.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 Missouri homestead preservation act.

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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Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows: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 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 subsection 4 of this section

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.

16 did not exceed the maximum upper limit; **in the case of property held in trust, the eligible**  
17 **owner and recipient of the tax credit shall be the trust itself provided the previous owner**  
18 **of the homestead or the previous owner's spouse is the settlor of the trust with respect to**  
19 **the homestead, currently resides in such homestead, and but for the transfer of such**  
20 **property would have satisfied the age, ownership, and maximum upper limit requirements**  
21 **for income as defined in subdivisions (7) and (8) of this subsection;** no individual shall be an  
22 eligible owner if the individual has not paid their property tax liability, if any, in full by the  
23 payment due date in any of the three prior tax years, except that a late payment of a property tax  
24 liability in any prior year, not including the year in which the application was completed, shall  
25 not disqualify a potential eligible owner if such owner paid in full the tax liability and any and  
26 all penalties, additions and interest that arose as a result of such late payment; no individual shall  
27 be an eligible owner if such person qualifies for the senior citizens property tax relief credit  
28 pursuant to sections 135.010 to 135.035, RSMo;

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

33 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest  
34 hundredth of a percent, which shall be equal to the percentage increase to tax liability, not  
35 including improvements, of a homestead from one tax year to the next that exceeds a certain  
36 percentage set pursuant to subsection 8 of this section;

37 (7) "Income", federal adjusted gross income, **and in the case of ownership of the**  
38 **homestead by trust, the income of the settlor applicant shall be imputed to the income of**  
39 **the trust for purposes of determining eligibility regarding the maximum upper limit;**

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

44 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax  
45 year, the property tax liability on any parcel of subclass (1) real property increased by more than  
46 the homestead exemption limit, without regard for any prior credit received due to the provisions  
47 of this section, then any eligible owner of the property shall receive a homestead exemption  
48 credit to be applied in the current tax year property tax liability to offset the prior year increase  
49 to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is  
50 limited by the provisions of this section. The amount of the credit shall be listed separately on  
51 each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's

52 bill. The homestead exemption credit shall not affect the process of setting the tax rate as  
53 required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in  
54 any prior, current, or subsequent tax year.

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

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

69  
70 The applicant shall also include with the application copies of receipts indicating payment of  
71 property tax by the applicant for the homestead property for the two prior tax years.

72 5. The assessor, upon receiving an application, shall:

- 73 (1) Certify the parcel number and owner of record as of January first of the homestead,  
74 including verification of the acreage classified as residential on the assessor's property record  
75 card;
- 76 (2) Obtain appropriate prior tax year levy codes for each homestead from the county  
77 clerks;
- 78 (3) Record on the application the assessed valuation of the homestead for the current tax  
79 year, and any new construction or improvements for the current tax year; and
- 80 (4) Sign the application, certifying the accuracy of the assessor's entries.

81 6. Each applicant shall send the application to the department by September thirtieth of  
82 each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next  
83 following the calendar year in which the application was completed.

84 7. Upon receipt of the applications, the department shall calculate the tax liability,  
85 adjusted to exclude new construction or improvements, verify compliance with the maximum  
86 income limit, verify the age of the applicants, and make adjustments to these numbers as  
87 necessary on the applications. The department also shall disallow any application where the

88 applicant has also filed a valid application for the senior citizens property tax credit, pursuant to  
89 sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified,  
90 the director shall determine eligibility for the credit, and provide a list of all verified eligible  
91 owners to the county collectors or county clerks in counties with a township form of government  
92 by December fifteenth of each year. By January fifteenth, the county collectors or county clerks  
93 in counties with a township form of government shall provide a list to the department of any  
94 verified eligible owners who failed to pay the property tax due for the tax year that ended  
95 immediately prior. Such eligible owners shall be disqualified from receiving the credit in the  
96 current tax year.

97         8. The director shall calculate the level of appropriation necessary to set the homestead  
98 exemption limit at five percent when based on a year of general reassessment or at two and  
99 one-half percent when based on a year without general reassessment for the homesteads of all  
100 verified eligible owners, and provide such calculation to the speaker of the house of  
101 representatives, the president pro tempore of the senate, and the director of the office of budget  
102 and planning in the office of administration by January thirty-first of each year.

103         9. If, in any given year, the general assembly shall make an appropriation for the funding  
104 of the homestead exemption credit that is signed by the governor, then the director shall, by July  
105 thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide  
106 percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if  
107 applied to all homesteads of verified eligible owners who applied for the homestead exemption  
108 credit in the immediately prior tax year, would cause all but one-quarter of one percent of the  
109 amount of the appropriation, minus any withholding by the governor, to be distributed during  
110 that fiscal year. The remaining one-quarter of one percent shall be distributed to the county  
111 assessment funds of each county on a proportional basis, based on the number of eligible owners  
112 in each county; such one-quarter percent distribution shall be delineated in any such  
113 appropriation as a separate line item in the total appropriation. If no appropriation is made by  
114 the general assembly during any tax year or no funds are actually distributed pursuant to any  
115 appropriation therefor, then no homestead preservation credit shall apply in such year.

116         10. After setting the homestead exemption limit, the director shall apply the limit to the  
117 homestead of each verified eligible owner and calculate the credit to be associated with each  
118 verified eligible owner's homestead, if any. The director shall send a list of those eligible owners  
119 who are to receive the homestead exemption credit, including the amount of each credit, the  
120 certified parcel number of the homestead, and the address of the homestead property, to the  
121 county collectors or county clerks in counties with a township form of government by August  
122 thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how  
123 to distribute the appropriation to the county collector's funds of each county where recipients of

124 the homestead exemption credit are located, so as to exactly offset each homestead exemption  
125 credit being issued, plus the one-quarter of one percent distribution for the county assessment  
126 funds. As a result of the appropriation, in no case shall a political subdivision receive more  
127 money than it would have received absent the provisions of this section plus the one-quarter of  
128 one percent distribution for the county assessment funds. Funds, at the direction of the county  
129 collector, shall be deposited in the county collector's fund of a county or may be sent by mail to  
130 the collector of a county not later than October first in any year a homestead exemption credit  
131 is appropriated as a result of this section and shall be distributed as moneys in such funds are  
132 commonly distributed from other property tax revenues, so as to exactly offset each homestead  
133 exemption credit being issued.

134         11. The department shall promulgate rules for implementation of this section. Any rule  
135 or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the  
136 authority delegated in this section shall become effective only if it complies with and is subject  
137 to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
138 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
139 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
140 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
141 authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any  
142 rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the  
143 performance of the required statutory duties of any county elected official, more particularly  
144 including the county collector when performing such duties as deemed necessary for the  
145 distribution of any homestead appropriation and the distribution of all other real and personal  
146 property taxes.

147         12. In the event that an eligible owner dies or transfers ownership of the property after  
148 the homestead exemption limit has been set in any given year, but prior to the mailing of the tax  
149 bill, the credit shall be void and any corresponding moneys, pursuant to subsection 10 of this  
150 section, shall lapse to the state to be credited to the general revenue fund.

151         13. This section shall apply to all tax years beginning on or after January 1, 2005. This  
152 subsection shall become effective June 28, 2004.

153         14. In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless  
154 otherwise authorized pursuant to section 23.253, RSMo:

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

157             (2) This section shall terminate on September first of the year following the year in  
158 which any new program authorized under this section is sunset, and the revisor of statutes shall  
159 designate such sections and this section in a revision bill for repeal.