

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 229

93RD GENERAL ASSEMBLY

0794S.03T

2005

AN ACT

To repeal sections 135.010 and 137.106, RSMo, and to enact in lieu thereof two new sections relating to the homestead preservation tax credit.

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

Section A. Sections 135.010 and 137.106, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 135.010 and 137.106, to read as follows:

135.010. As used in sections 135.010 to 135.030 the following words and terms mean:

2 (1) "Claimant", a person or persons claiming a credit under sections 135.010 to 135.030.
3 If the persons are eligible to file a joint federal income tax return and reside at the same address
4 at any time during the taxable year, then the credit may only be allowed if claimed on a combined
5 Missouri income tax return or a combined claim return reporting their combined incomes and
6 property taxes. A claimant shall not be allowed a property tax credit unless the claimant or
7 spouse has attained the age of sixty-five on or before the last day of the calendar year and the
8 claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a
9 veteran of any branch of the armed forces of the United States or this state who became one
10 hundred percent disabled as a result of such service, or the claimant or spouse is disabled as
11 defined in subdivision (2) of this section, and such claimant or spouse provides proof of such
12 disability in such form and manner, and at such times, as the director of revenue may require, or
13 if the claimant has reached the age of sixty on or before the last day of the calendar year and such
14 claimant received surviving spouse Social Security benefits during the calendar year and the
15 claimant provides proof, as required by the director of revenue, that the claimant received
16 surviving spouse Social Security benefits during the calendar year for which the credit will be

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 claimed. **A claimant shall not be allowed a property tax credit if the claimant filed a valid**
18 **claim for a credit under section 137.106 in the year following the year for which the**
19 **property tax credit is claimed.** The residency requirement shall be deemed to have been
20 fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax
21 credit if a person of the age of sixty-five years or older who would have otherwise met the
22 requirements for a property tax credit dies before the last day of the calendar year. The residency
23 requirement shall also be deemed to have been fulfilled for the purpose of determining the
24 eligibility of a claimant who would have otherwise met the requirements for a property tax credit
25 but who dies before the last day of the calendar year;

26 (2) "Disabled", the inability to engage in any substantial gainful activity by reason of any
27 medically determinable physical or mental impairment which can be expected to result in death
28 or which has lasted or can be expected to last for a continuous period of not less than twelve
29 months. A claimant shall not be required to be gainfully employed prior to such disability to
30 qualify for a property tax credit;

31 (3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length,
32 of a homestead during the calendar year, exclusive of charges for health and personal care
33 services and food furnished as part of the rental agreement, whether or not expressly set out in
34 the rental agreement. If the director of revenue determines that the landlord and tenant have not
35 dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent
36 based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually
37 paid prior to the date a return is filed. The director of revenue may prescribe regulations
38 requiring a return of information by a landlord receiving rent, certifying for a calendar year the
39 amount of gross rent received from a tenant claiming a property tax credit and shall, by
40 regulation, provide a method for certification by the claimant of the amount of gross rent paid
41 for any calendar year for which a claim is made. The regulations authorized by this subdivision
42 may require a landlord or a tenant or both to provide data relating to health and personal care
43 services and to food. Neither a landlord nor a tenant may be required to provide data relating to
44 utilities, furniture, home furnishings or appliances;

45 (4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to
46 exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a
47 home. It may consist of part of a multidwelling or multipurpose building and part of the land
48 upon which it is built. "Owned" includes a vendee in possession under a land contract and one
49 or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant
50 actually in possession if he was the immediate former owner of record, if a lineal descendant is
51 presently the owner of record, and if the claimant actually pays all taxes upon the property. It
52 may include a mobile home;

53 (5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less
54 two thousand dollars as an exemption for the claimant's spouse residing at the same address, and
55 increased, where necessary, to reflect the following:

56 (a) Social Security, railroad retirement, and veterans payments and benefits unless the
57 claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one
58 hundred percent service-connected, disabled veteran. The one hundred percent
59 service-connected disabled veteran shall not be required to list veterans payments and benefits;

60 (b) The total amount of all other public and private pensions and annuities;

61 (c) Public relief, public assistance, and unemployment benefits received in cash, other
62 than benefits received under this chapter;

63 (d) No deduction being allowed for losses not incurred in a trade or business;

64 (e) Interest on the obligations of the United States, any state, or any of their subdivisions
65 and instrumentalities;

66 (6) "Property taxes accrued", property taxes paid, exclusive of special assessments,
67 penalties, interest, and charges for service levied on a claimant's homestead in any calendar year.
68 Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed.
69 The director of revenue shall require a tax receipt or other proof of property tax payment. If a
70 homestead is owned only partially by claimant, then "property taxes accrued" is that part of
71 property taxes levied on the homestead which was actually paid by the claimant. For purposes
72 of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of
73 revenue for collection. If a claimant owns a homestead part of the preceding calendar year and
74 rents it or a different homestead for part of the same year, "property taxes accrued" means only
75 taxes levied on the homestead both owned and occupied by the claimant, multiplied by the
76 percentage of twelve months that such property was owned and occupied as the homestead of
77 the claimant during the year. When a claimant owns and occupies two or more different
78 homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable
79 to those several properties occupied by the claimant as a homestead for the year. If a homestead
80 is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building,
81 property taxes accrued shall be that percentage of the total property taxes accrued as the value
82 of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel
83 of property covered by a single tax statement of which the homestead is a part;

84 (7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by
85 a claimant and spouse in the calendar year.

137.106. 1. This section may be known and may be cited as "The Missouri Homestead
2 Preservation Act".

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

- 4 (1) "Department", the department of revenue;
- 5 (2) "Director", the director of revenue;
- 6 (3) "Disabled", as such term is defined in section 135.010, RSMo;
- 7 (4) "Eligible owner", any individual owner of property who is sixty-five years old or
8 older as of January first of the tax year in which the individual is claiming the credit or who is
9 disabled, and who had an income of equal to or less than the maximum upper limit in the year
10 prior to completing an application pursuant to subsection 4 of this section; in the case of a
11 married couple owning property either jointly or as tenants by the entirety, or where only one
12 spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses
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; **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] **filed a valid claim** for the senior citizens property
28 tax relief credit 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, **except where an eligible owner of the property
33 has made such improvements to accommodate a disabled person;**
- 34 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest
35 hundredth of a percent, which shall be equal to the percentage increase to tax liability, not
36 including improvements, of a homestead from one tax year to the next that exceeds a certain
37 percentage set pursuant to subsection [8] **10** of this section. **For applications filed in 2005 or
38 2006, the homestead exemption limit shall be based on the increase to tax liability from
39 2004 to 2005. For applications filed between April 1, 2005 and September 30, 2006, an**

40 **eligible owner, who otherwise satisfied the requirements of this section, shall not apply for**
41 **the homestead exemption credit more than once during such period. For applications filed**
42 **after 2006, the homestead exemption limit shall be based on the increase to tax liability**
43 **from two years prior to application to the year immediately prior to application;**

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

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

51 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax
52 year, the property tax liability on any parcel of subclass (1) real property increased by more than
53 the homestead exemption limit, without regard for any prior credit received due to the provisions
54 of this section, then any eligible owner of the property shall receive a homestead exemption
55 credit to be applied in the current tax year property tax liability to offset the prior year increase
56 to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is
57 limited by the provisions of this section. The amount of the credit shall be listed separately on
58 each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's
59 bill. The homestead exemption credit shall not affect the process of setting the tax rate as
60 required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in
61 any prior, current, or subsequent tax year.

62 4. **If application is made in 2005**, any potential eligible owner may apply for the
63 homestead exemption credit by completing an application through their local assessor's office.
64 Applications may be completed between April first and September thirtieth of any tax year in
65 order for the taxpayer to be eligible for the homestead exemption credit in the tax year next
66 following the calendar year in which the homestead exemption credit application was completed.
67 The application shall be on forms provided to the assessor's office by the department. Forms also
68 shall be made available on the department's Internet site and at all permanent branch offices and
69 all full-time, temporary, or fee offices maintained by the department of revenue. The applicant
70 shall attest under penalty of perjury:

71 (1) To the applicant's age;

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

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

74 (4) That any improvements made to the homestead, **not made to accommodate a**
75 **disabled person**, did not total more than five percent of the prior year appraised value.

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

78 **5. If application is made in 2005**, the assessor, upon [receiving] **request for an**
79 **application, shall:**

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

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

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

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

88 **6. If application is made after 2005, any potential eligible owner may apply for the**
89 **homestead exemption credit by completing an application. Applications may be completed**
90 **between April 1 and September 30 of any tax year in order for the taxpayer to be eligible**
91 **for the homestead exemption credit in the tax year next following the calendar year in**
92 **which the homestead exemption credit application was completed. The application shall**
93 **be on forms provided by the department. Forms also shall be made available on the**
94 **department's Internet site and at all permanent branch offices and all full-time, temporary,**
95 **or fee offices maintained by the department of revenue. The applicant shall attest under**
96 **penalty of perjury:**

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

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

99 (3) **To the address of the homestead property;**

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

102 (5) **The applicant shall also include with the application copies of receipts**
103 **indicating payment of property tax by the applicant for the homestead property for the**
104 **three prior tax years.**

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

108 [7.] **8. If application is made in 2005**, upon receipt of the applications, the department
109 shall calculate the tax liability, adjusted to exclude new construction or improvements verify
110 compliance with the maximum income limit, verify the age of the applicants, and make
111 adjustments to these numbers as necessary on the applications. The department also shall

112 disallow any application where the applicant has also filed a valid application for the senior
113 citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax
114 liability, age, and income are verified, the director shall determine eligibility for the credit, and
115 provide a list of all verified eligible owners to the county collectors or county clerks in counties
116 with a township form of government by December fifteenth of each year. By January fifteenth,
117 the county collectors or county clerks in counties with a township form of government shall
118 provide a list to the department of any verified eligible owners who failed to pay the property tax
119 due for the tax year that ended immediately prior. Such eligible owners shall be disqualified
120 from receiving the credit in the current tax year.

121 [8.] **9. If application is made after 2005, upon receipt of the applications, the**
122 **department shall calculate the tax liability, verify compliance with the maximum income**
123 **limit, verify the age of the applicants, and make adjustments to these numbers as necessary**
124 **on the applications. The department also shall disallow any application where the**
125 **applicant also has filed a valid application for the senior citizens property tax credit under**
126 **sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income is verified,**
127 **the director shall determine eligibility for the credit and provide a list of all verified eligible**
128 **owners to the county assessors or county clerks in counties with a township form of**
129 **government by December fifteenth of each year. By January fifteenth, the county assessors**
130 **shall provide a list to the department of any verified eligible owners who made**
131 **improvements not for accommodation of a disability to the homestead and the dollar**
132 **amount of the assessed value of such improvements. If the dollar amount of the assessed**
133 **value of such improvements totaled more than five percent of the prior year appraised**
134 **value, such eligible owners shall be disqualified from receiving the credit in the current tax**
135 **year.**

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

142 [9.] **11.** [If, in any given year,] **For applications made in 2005,** the general assembly
143 shall make an appropriation for the funding of the homestead exemption credit that is signed by
144 the governor, then the director shall, by July thirty-first of such year, set the homestead
145 exemption limit. The limit shall be a single, statewide percentage increase to tax liability,
146 rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified
147 eligible owners who applied for the homestead exemption credit in the immediately prior tax

148 year, would cause all but one-quarter of one percent of the amount of the appropriation, minus
149 any withholding by the governor, to be distributed during that fiscal year. The remaining
150 one-quarter of one percent shall be distributed to the county assessment funds of each county on
151 a proportional basis, based on the number of eligible owners in each county; such one-quarter
152 percent distribution shall be delineated in any such appropriation as a separate line item in the
153 total appropriation. If no appropriation is made by the general assembly during any tax year or
154 no funds are actually distributed pursuant to any appropriation therefor, then no homestead
155 preservation credit shall apply in such year.

156 [10.] **12.** After setting the homestead exemption limit **for applications made in 2005**,
157 the director shall apply the limit to the homestead of each verified eligible owner and calculate
158 the credit to be associated with each verified eligible owner's homestead, if any. The director
159 shall send a list of those eligible owners who are to receive the homestead exemption credit,
160 including the amount of each credit, the certified parcel number of the homestead, and the
161 address of the homestead property, to the county collectors or county clerks in counties with a
162 township form of government by August thirty-first. Pursuant to such calculation, the director
163 shall instruct the state treasurer as to how to distribute the appropriation **and assessment fund**
164 **allocation** to the county collector's funds of each county **or the treasurer ex-officio collector's**
165 **fund in counties with a township form of government** where recipients of the homestead
166 exemption credit are located, so as to exactly offset each homestead exemption credit being
167 issued, plus the one-quarter of one percent distribution for the county assessment funds. As a
168 result of the appropriation, in no case shall a political subdivision receive more money than it
169 would have received absent the provisions of this section plus the one-quarter of one percent
170 distribution for the county assessment funds. Funds, at the direction of the county collector **or**
171 **the treasurer ex-officio collector in counties with a township form of government**, shall be
172 deposited in the county collector's fund of a county **or the treasurer ex-officio collector's fund**
173 or may be sent by mail to the collector of a county, **or the treasurer ex-officio collector in**
174 **counties with a township form of government**, not later than October first in any year a
175 homestead exemption credit is appropriated as a result of this section and shall be distributed as
176 moneys in such funds are commonly distributed from other property tax revenues **by the**
177 **collector of the county or the treasurer ex-officio collector of the county in counties with**
178 **a township form of government**, so as to exactly offset each homestead exemption credit being
179 issued. **In counties with a township form of government, the county clerk shall provide the**
180 **treasurer ex-officio collector a summary of the homestead exemption credit for each**
181 **township for the purpose of distributing the total homestead exemption credit to each**
182 **township collector in a particular county.**

183 [11.] 13. If, in any given year after 2005, the general assembly shall make an
184 appropriation for the funding of the homestead exemption credit that is signed by the
185 governor, then the director shall, by July thirty-first of such year, set the homestead
186 exemption limit. The limit shall be a single, statewide percentage increase to tax liability,
187 rounded to the nearest hundredth of a percent, which, if applied to all homesteads of
188 verified eligible owners who applied for the homestead exemption credit in the immediately
189 prior tax year, would cause all of the amount of the appropriation, minus any withholding
190 by the governor, to be distributed during that fiscal year. If no appropriation is made by
191 the general assembly during any tax year or no funds are actually distributed pursuant to
192 any appropriation therefor, then no homestead preservation credit shall apply in such
193 year.

194 14. After setting the homestead exemption limit for applications made after 2005,
195 the director shall apply the limit to the homestead of each verified eligible owner and
196 calculate the credit to be associated with each verified eligible owner's homestead, if any.
197 The director shall send a list of those eligible owners who are to receive the homestead
198 exemption credit, including the amount of each credit, the certified parcel number of the
199 homestead, and the address of the homestead property, to the county collectors or county
200 clerks in counties with a township form of government by August thirty-first. Pursuant
201 to such calculation, the director shall instruct the state treasurer as to how to distribute the
202 appropriation to the county collector's fund of each county where recipients of the
203 homestead exemption credit are located, so as to exactly offset each homestead exemption
204 credit being issued. As a result of the appropriation, in no case shall a political subdivision
205 receive more money than it would have received absent the provisions of this section.
206 Funds, at the direction of the collector of the county or treasurer ex-officio collector in
207 counties with a township form of government, shall be deposited in the county collector's
208 fund of a county or may be sent by mail to the collector of a county, or treasurer ex-officio
209 collector in counties with a township form of government, not later than October first in
210 any year a homestead exemption credit is appropriated as a result of this section and shall
211 be distributed as moneys in such funds are commonly distributed from other property tax
212 revenues by the collector of the county or the treasurer ex-officio collector of the county
213 in counties with a township form of government, so as to exactly offset each homestead
214 exemption credit being issued.

215 15. The department shall promulgate rules for implementation of this section. Any rule
216 or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the
217 authority delegated in this section shall become effective only if it complies with and is subject
218 to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This

219 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
220 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
221 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
222 authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any
223 rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the
224 performance of the required statutory duties of any county elected official, more particularly
225 including the county collector when performing such duties as deemed necessary for the
226 distribution of any homestead appropriation and the distribution of all other real and personal
227 property taxes.

228 [12.] **16.** In the event that an eligible owner dies or transfers ownership of the property
229 after the homestead exemption limit has been set in any given year, but prior to [the mailing of
230 the tax bill] **January first of the year in which the credit would otherwise be applied**, the
231 credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section,
232 shall lapse to the state to be credited to the general revenue fund. **In the event the collector of**
233 **the county or the treasurer ex-officio collector of the county in counties with a township**
234 **form of government determines prior to issuing the credit that the individual is not an**
235 **eligible owner because the individual did not pay the prior three years' property tax**
236 **liability in full, the credit shall be void and any corresponding moneys, under subsection**
237 **11 of this section, shall lapse to the state to be credited to the general revenue fund.**

238 [13.] **17.** This section shall apply to all tax years beginning on or after January 1, 2005.
239 This subsection shall become effective June 28, 2004.

240 [14.] **18.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and
241 unless otherwise authorized pursuant to section 23.253, RSMo:

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

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