

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 229
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, April 14, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0794S.03C

TERRY L. SPIELER, Secretary.

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Section A. Sections 135.010 and 137.106, RSMo, are repealed and two new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

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

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

49 (4) "Homestead", the dwelling in Missouri owned or rented by the claimant and
50 not to exceed five acres of land surrounding it as is reasonably necessary for use of the
51 dwelling as a home. It may consist of part of a multidwelling or multipurpose building
52 and part of the land upon which it is built. "Owned" includes a vendee in possession
53 under a land contract and one or more tenants by the entireties, joint tenants, or tenants

54 in common and includes a claimant actually in possession if he was the immediate
55 former owner of record, if a lineal descendant is presently the owner of record, and if the
56 claimant actually pays all taxes upon the property. It may include a mobile home;

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

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

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

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

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

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

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

90 covered by a single tax statement of which the homestead is a part;

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

137.106. 1. This section may be known and may be cited as "The Missouri
2 Homestead 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
8 or older as of January first of the tax year in which the individual is claiming the credit
9 or who is disabled, and who had an income of equal to or less than the maximum upper
10 limit in the year prior to completing an application pursuant to subsection 4 of this
11 section; in the case of a married couple owning property either jointly or as tenants by
12 the entirety, or where only one spouse owns the property, such couple shall be considered
13 an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse
14 is disabled, or if one spouse is at least sixty-five years old and the other spouse is at
15 least sixty years old, and the combined income of the couple in the year prior to
16 completing an application pursuant to subsection 4 of this section did not exceed the
17 maximum upper limit; **in the case of property held in trust, the eligible owner
18 and recipient of the tax credit shall be the trust itself provided the previous
19 owner of the homestead or the previous owner's spouse: is the settlor of the
20 trust with respect to the homestead; currently resides in such homestead; and
21 but for the transfer of such property would have satisfied the age, ownership,
22 and maximum upper limit requirements for income as defined in subdivisions
23 (7) and (8) of this subsection;** no individual shall be an eligible owner if the
24 individual has not paid their property tax liability, if any, in full by the payment due
25 date in any of the three prior tax years, except that a late payment of a property tax
26 liability in any prior year, [not including the year in which the application was
27 completed,] shall not disqualify a potential eligible owner if such owner paid in full the
28 tax liability and any and all penalties, additions and interest that arose as a result of
29 such late payment; no individual shall be an eligible owner if such person [qualifies]
30 **filed a valid claim** for the senior citizens property tax relief credit pursuant to sections
31 135.010 to 135.035, RSMo;

32 (5) "Homestead", as such term is defined pursuant to section 135.010, RSMo,
33 except as limited by provisions of this section to the contrary. No property shall be

34 considered a homestead if such property was improved since the most recent annual
35 assessment by more than five percent of the prior year appraised value, **except where**
36 **an eligible owner of the property has made such improvements to**
37 **accommodate a disabled person;**

38 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest
39 hundredth of a percent, which shall be equal to the percentage increase to tax liability,
40 not including improvements, of a homestead from one tax year to the next that exceeds
41 a certain percentage set pursuant to subsection [8] 10 of this section. **For applications**
42 **filed in 2005 or 2006, the homestead exemption limit shall be based on the**
43 **increase to tax liability from 2004 to 2005. For applications filed between**
44 **April 1, 2005 and September 30, 2006, an eligible owner, who otherwise**
45 **satisfied the requirements of this section, shall not apply for the homestead**
46 **exemption credit more than once during such period. For applications filed**
47 **after 2006, the homestead exemption limit shall be based on the increase to**
48 **tax liability from two years prior to application to the year immediately prior**
49 **to application;**

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

54 (8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy
55 thousand dollars; in each successive calendar year this amount shall be raised by the
56 incremental increase in the general price level, as defined pursuant to article X, section
57 17 of the Missouri Constitution.

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

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

80 (1) To the applicant's age;

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

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

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

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

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

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

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

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

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

101 6. **If application is made after 2005**, any potential eligible owner may
102 **apply for the homestead exemption credit by completing an**
103 **application. Applications may be completed between April 1 and September**
104 **30 of any tax year in order for the taxpayer to be eligible for the homestead**
105 **exemption credit in the tax year next following the calendar year in which**

106 **the homestead exemption credit application was completed. The application**
107 **shall be on forms provided by the department. Forms also shall be made**
108 **available on the department's Internet site and at all permanent branch**
109 **offices and all full-time, temporary, or fee offices maintained by the**
110 **department of revenue. The applicant shall attest under penalty of perjury:**

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

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

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

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

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

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

124 **[7.] 8. If application is made in 2005,** upon receipt of the applications, the
125 department shall calculate the tax liability, adjusted to exclude new construction or
126 improvements verify compliance with the maximum income limit, verify the age of the
127 applicants, and make adjustments to these numbers as necessary on the
128 applications. The department also shall disallow any application where the applicant
129 has also filed a valid application for the senior citizens property tax credit, pursuant to
130 sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are
131 verified, the director shall determine eligibility for the credit, and provide a list of all
132 verified eligible owners to the county collectors or county clerks in counties with a
133 township form of government by December fifteenth of each year. By January fifteenth,
134 the county collectors or county clerks in counties with a township form of government
135 shall provide a list to the department of any verified eligible owners who failed to pay
136 the property tax due for the tax year that ended immediately prior. Such eligible owners
137 shall be disqualified from receiving the credit in the current tax year.

138 **[8.] 9. If application is made after 2005, upon receipt of the**
139 **applications, the department shall calculate the tax liability, verify**
140 **compliance with the maximum income limit, verify the age of the applicants,**
141 **and make adjustments to these numbers as necessary on the**

142 **applications. The department also shall disallow any application where the**
143 **applicant also has filed a valid application for the senior citizens property tax**
144 **credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability,**
145 **age, and income is verified, the director shall determine eligibility for the**
146 **credit and provide a list of all verified eligible owners to the county assessors**
147 **or county clerks in counties with a township form of government by**
148 **December fifteenth of each year. By January fifteenth, the county assessors**
149 **shall provide a list to the department of any verified eligible owners who**
150 **made improvements not for accommodation of a disability to the homestead**
151 **and the dollar amount of the assessed value of such improvements. If the**
152 **dollar amount of the assessed value of such improvements totaled more than**
153 **five percent of the prior year appraised value, such eligible owners shall be**
154 **disqualified from receiving the credit in the current tax year.**

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

162 **[9.] 11. [If, in any given year,] For applications made in 2005,** the general
163 assembly shall make an appropriation for the funding of the homestead exemption credit
164 that is signed by the governor, then the director shall, by July thirty-first of such year,
165 set the homestead exemption limit. The limit shall be a single, statewide percentage
166 increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied
167 to all homesteads of verified eligible owners who applied for the homestead exemption
168 credit in the immediately prior tax year, would cause all but one-quarter of one percent
169 of the amount of the appropriation, minus any withholding by the governor, to be
170 distributed during that fiscal year. The remaining one-quarter of one percent shall be
171 distributed to the county assessment funds of each county on a proportional basis, based
172 on the number of eligible owners in each county; such one-quarter percent distribution
173 shall be delineated in any such appropriation as a separate line item in the total
174 appropriation. If no appropriation is made by the general assembly during any tax year
175 or no funds are actually distributed pursuant to any appropriation therefor, then no
176 homestead preservation credit shall apply in such year.

177 **[10.] 12.** After setting the homestead exemption limit **for applications made**

178 **in 2005**, the director shall apply the limit to the homestead of each verified eligible
179 owner and calculate the credit to be associated with each verified eligible owner's
180 homestead, if any. The director shall send a list of those eligible owners who are to
181 receive the homestead exemption credit, including the amount of each credit, the
182 certified parcel number of the homestead, and the address of the homestead property,
183 to the county collectors or county clerks in counties with a township form of government
184 by August thirty-first. Pursuant to such calculation, the director shall instruct the state
185 treasurer as to how to distribute the appropriation **and assessment fund allocation**
186 to the county collector's funds of each county **or the treasurer ex-officio collector's**
187 **fund in counties with a township form of government** where recipients of the
188 homestead exemption credit are located, so as to exactly offset each homestead
189 exemption credit being issued, plus the one-quarter of one percent distribution for the
190 county assessment funds. As a result of the appropriation, in no case shall a political
191 subdivision receive more money than it would have received absent the provisions of this
192 section plus the one-quarter of one percent distribution for the county assessment
193 funds. Funds, at the direction of the county collector **or the treasurer ex-officio**
194 **collector in counties with a township form of government**, shall be deposited in
195 the county collector's fund of a county **or the treasurer ex-officio collector's fund**
196 or may be sent by mail to the collector of a county, **or the treasurer ex-officio**
197 **collector in counties with a township form of government**, not later than October
198 first in any year a homestead exemption credit is appropriated as a result of this section
199 and shall be distributed as moneys in such funds are commonly distributed from other
200 property tax revenues **by the collector of the county or the treasurer ex-officio**
201 **collector of the county in counties with a township form of government**, so as
202 to exactly offset each homestead exemption credit being issued. **In counties with a**
203 **township form of government, the county clerk shall provide the treasurer ex-**
204 **officio collector a summary of the homestead exemption credit for each**
205 **township for the purpose of distributing the total homestead exemption credit**
206 **to each township collector in a particular county.**

207 [11.] 13. If, in any given year after 2005, the general assembly shall
208 make an appropriation for the funding of the homestead exemption credit
209 that is signed by the governor, then the director shall, by July thirty-first of
210 such year, set the homestead exemption limit. The limit shall be a single,
211 statewide percentage increase to tax liability, rounded to the nearest
212 hundredth of a percent, which, if applied to all homesteads of verified eligible
213 owners who applied for the homestead exemption credit in the immediately

214 prior tax year, would cause all of the amount of the appropriation, minus any
215 withholding by the governor, to be distributed during that fiscal year. If no
216 appropriation is made by the general assembly during any tax year or no
217 funds are actually distributed pursuant to any appropriation therefor, then
218 no homestead preservation credit shall apply in such year.

219 14. After setting the homestead exemption limit for applications made
220 after 2005, the director shall apply the limit to the homestead of each verified
221 eligible owner and calculate the credit to be associated with each verified
222 eligible owner's homestead, if any. The director shall send a list of those
223 eligible owners who are to receive the homestead exemption credit, including
224 the amount of each credit, the certified parcel number of the homestead, and
225 the address of the homestead property, to the county collectors or county
226 clerks in counties with a township form of government by August
227 thirty-first. Pursuant to such calculation, the director shall instruct the state
228 treasurer as to how to distribute the appropriation to the county collector's
229 fund of each county where recipients of the homestead exemption credit are
230 located, so as to exactly offset each homestead exemption credit being issued.
231 As a result of the appropriation, in no case shall a political subdivision receive
232 more money than it would have received absent the provisions of this
233 section. Funds, at the direction of the collector of the county or treasurer ex-
234 officio collector in counties with a township form of government, shall be
235 deposited in the county collector's fund of a county or may be sent by mail to
236 the collector of a county, or treasurer ex-officio collector in counties with a
237 township form of government, not later than October first in any year a
238 homestead exemption credit is appropriated as a result of this section and
239 shall be distributed as moneys in such funds are commonly distributed from
240 other property tax revenues by the collector of the county or the treasurer ex-
241 officio collector of the county in counties with a township form of
242 government, so as to exactly offset each homestead exemption credit being
243 issued.

244 15. The department shall promulgate rules for implementation of this
245 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
246 that is created under the authority delegated in this section shall become effective only
247 if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
248 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
249 nonseverable and if any of the powers vested with the general assembly pursuant to
250 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a

251 rule are subsequently held unconstitutional, then the grant of rulemaking authority and
252 any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule
253 promulgated by the department shall in no way impact, affect, interrupt, or interfere
254 with the performance of the required statutory duties of any county elected official, more
255 particularly including the county collector when performing such duties as deemed
256 necessary for the distribution of any homestead appropriation and the distribution of all
257 other real and personal property taxes.

258 [12.] 16. In the event that an eligible owner dies or transfers ownership of the
259 property after the homestead exemption limit has been set in any given year, but prior
260 to [the mailing of the tax bill] **January first of the year in which the credit would**
261 **otherwise be applied**, the credit shall be void and any corresponding moneys,
262 pursuant to subsection 10 of this section, shall lapse to the state to be credited to the
263 general revenue fund. **In the event the collector of the county or the treasurer**
264 **ex-officio collector of the county in counties with a township form of**
265 **government determines prior to issuing the credit that the individual is not**
266 **an eligible owner because the individual did not pay the prior three years'**
267 **property tax liability in full, the credit shall be void and any corresponding**
268 **moneys, under subsection 11 of this section, shall lapse to the state to be**
269 **credited to the general revenue fund.**

270 [13.] 17. This section shall apply to all tax years beginning on or after January
271 1, 2005. This subsection shall become effective June 28, 2004.

272 [14.] 18. In accordance with the provisions of sections 23.250 to 23.298, RSMo,
273 and unless otherwise authorized pursuant to section 23.253, RSMo:

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

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

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