

FIRST REGULAR SESSION

SENATE BILL NO. 73

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0627S.01I

AN ACT

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

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

Section A. Section 137.106, RSMo, is repealed and one new section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

137.106. 1. This section [may] **shall** be known and may be cited as "The
2 Missouri 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;

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

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

19 (b) In the case of joint ownership by unmarried persons or ownership by

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

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

32 (c) In the case of property held in trust, the eligible owner and recipient
33 of the tax credit shall be the trust itself provided the previous owner of the
34 homestead or the previous owner's spouse: is the settlor of the trust with respect
35 to the homestead; currently resides in such homestead; and but for the transfer
36 of such property would have satisfied the age, ownership, and maximum upper
37 limit requirements for income as defined in subdivisions [(7)] (6) and [(8)] (7) of
38 this subsection;

39 No individual shall be an eligible owner if the individual has not paid [their] **the**
40 **individual's** property tax liability, if any, in full by the payment due date in any
41 of the three prior tax years, except that a late payment of a property tax liability
42 in any prior year shall not disqualify a potential eligible owner if such owner paid
43 in full the tax liability and any and all penalties, additions and interest that
44 arose as a result of such late payment; no individual shall be an eligible owner
45 if such person filed a valid claim for the senior citizens property tax relief credit
46 pursuant to sections 135.010 to 135.035;

47 (5) "Homestead", as such term is defined pursuant to section 135.010,
48 except as limited by provisions of this section to the contrary. No property shall
49 be considered a homestead if such property was improved since the most recent
50 annual assessment by more than five percent of the prior year appraised value,
51 except where an eligible owner of the property has made such improvements to
52 accommodate a disabled person. **No property shall be considered a**
53 **homestead if there is an encumbrance on such property;**

54 (6) ["Homestead exemption limit", a percentage increase, rounded to the
55 nearest hundredth of a percent, which shall be equal to the percentage increase

56 to tax liability, not including improvements, of a homestead from one tax year to
57 the next that exceeds a certain percentage set pursuant to subsection 10 of this
58 section. For applications filed in 2005 or 2006, the homestead exemption limit
59 shall be based on the increase to tax liability from 2004 to 2005. For applications
60 filed between April 1, 2005, and September 30, 2006, an eligible owner, who
61 otherwise satisfied the requirements of this section, shall not apply for the
62 homestead exemption credit more than once during such period. For applications
63 filed after 2006, the homestead exemption limit shall be based on the increase to
64 tax liability from two years prior to application to the year immediately prior to
65 application. For applications filed between December 31, 2008, and December 31,
66 2011, the homestead exemption limit shall be based on the increase in tax
67 liability from the base year to the year prior to the application year. For
68 applications filed on or after January 1, 2012, the homestead exemption limit
69 shall be based on the increase to tax liability from two years prior to application
70 to the year immediately prior to application. For purposes of this subdivision, the
71 term "base year" means the year prior to the first year in which the eligible
72 owner's application was approved, or 2006, whichever is later;

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

77 [(8)] (7) "Maximum upper limit", in the calendar year [2005] **2016**, the
78 income sum of [seventy] **one hundred** thousand dollars; in each successive
79 calendar year this amount shall be raised by the incremental increase in the
80 general price level, as defined pursuant to article X, section 17 of the Missouri
81 Constitution.

82 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in
83 the prior tax year, the property tax liability on any parcel of subclass (1) real
84 property increased [by more than the homestead exemption limit], without regard
85 for any prior credit received due to the provisions of this section, then any eligible
86 owner of the property shall receive a homestead exemption credit to be applied
87 in the current tax year property tax liability to offset the prior year increase to
88 tax liability [that exceeds the homestead exemption limit], except as eligibility
89 for the credit is limited by the provisions of this section. The amount of the credit
90 shall be listed separately on each taxpayer's tax bill for the current tax year, or
91 on a document enclosed with the taxpayer's bill. The homestead exemption credit

92 shall not affect the process of setting the tax rate as required pursuant to article
93 X, section 22 of the Constitution of Missouri and section 137.073 in any prior,
94 current, or subsequent tax year.

95 4. [If application is made in 2005, any potential eligible owner may apply
96 for the homestead exemption credit by completing an application through their
97 local assessor's office. Applications may be completed between April first and
98 September thirtieth of any tax year in order for the taxpayer to be eligible for the
99 homestead exemption credit in the tax year next following the calendar year in
100 which the homestead exemption credit application was completed. The
101 application shall be on forms provided to the assessor's office by the
102 department. Forms also shall be made available on the department's internet
103 site and at all permanent branch offices and all full-time, temporary, or fee offices
104 maintained by the department of revenue.

105 The applicant shall attest under penalty of perjury:

- 106 (1) To the applicant's age;
107 (2) That the applicant's prior year income was less than the maximum
108 upper limit;
109 (3) To the address of the homestead property; and
110 (4) That any improvements made to the homestead, not made to
111 accommodate a disabled person, did not total more than five percent of the prior
112 year appraised value. The applicant shall also include with the application copies
113 of receipts indicating payment of property tax by the applicant for the homestead
114 property for the two prior tax years.

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

- 117 (1) Certify the parcel number and owner of record as of January first of
118 the homestead, including verification of the acreage classified as residential on
119 the assessor's property record card;
120 (2) Obtain appropriate prior tax year levy codes for each homestead from
121 the county clerks for inclusion on the form;
122 (3) Record on the application the assessed valuation of the homestead for
123 the current tax year, and any new construction or improvements for the current
124 tax year; and
125 (4) Sign the application, certifying the accuracy of the assessor's entries.

126 6. If application is made after 2005,] Any potential eligible owner may
127 apply for the homestead exemption credit by completing an

128 application. Applications may be completed between April first and October
129 fifteenth of any tax year in order for the taxpayer to be eligible for the homestead
130 exemption credit in the tax year next following the calendar year in which the
131 homestead exemption credit application was completed. The application shall be
132 on forms provided by the department. Forms also shall be made available on the
133 department's internet site and at all permanent branch offices and all full-time,
134 temporary, or fee offices maintained by the department of revenue. The applicant
135 shall attest under penalty of perjury:

- 136 (1) To the applicant's age;
- 137 (2) That the applicant's prior year income was less than the maximum
138 upper limit;
- 139 (3) To the address of the homestead property;
- 140 (4) That any improvements made to the homestead, not made to
141 accommodate a disabled person, did not total more than five percent of the prior
142 year appraised value; and
- 143 (5) **That there are no encumbrances on the property.**

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

147 [7.] 5. Each applicant shall send the application to the department by
148 October fifteenth of each year for the taxpayer to be eligible for the homestead
149 exemption credit in the tax year next following the calendar year in which the
150 application was completed.

151 [8. If application is made in 2005, upon receipt of the applications, the
152 department shall calculate the tax liability, adjusted to exclude new construction
153 or improvements verify compliance with the maximum income limit, verify the
154 age of the applicants, and make adjustments to these numbers as necessary on
155 the applications. The department also shall disallow any application where the
156 applicant has also filed a valid application for the senior citizens property tax
157 credit, pursuant to sections 135.010 to 135.035. Once adjusted tax liability, age,
158 and income are verified, the director shall determine eligibility for the credit, and
159 provide a list of all verified eligible owners to the county collectors or county
160 clerks in counties with a township form of government by December fifteenth of
161 each year. By January fifteenth, the county collectors or county clerks in counties
162 with a township form of government shall provide a list to the department of any
163 verified eligible owners who failed to pay the property tax due for the tax year

164 that ended immediately prior. Such eligible owners shall be disqualified from
165 receiving the credit in the current tax year.

166 9. If application is made after 2005,]

167 6. Upon receipt of the applications, the department shall calculate the tax
168 liability, verify compliance with the maximum income limit, verify the age of the
169 applicants, and make adjustments to these numbers as necessary on the
170 applications. The department also shall disallow any application where the
171 applicant also has filed a valid application for the senior citizens property tax
172 credit under sections 135.010 to 135.035. Once adjusted tax liability, age, and
173 income are verified, the director shall determine eligibility for the credit and
174 provide a list of all verified eligible owners to the county assessors or county
175 clerks in counties with a township form of government by December fifteenth of
176 each year. By January fifteenth, the county assessors shall provide a list to the
177 department of any verified eligible owners who made improvements not for
178 accommodation of a disability to the homestead and the dollar amount of the
179 assessed value of such improvements. If the dollar amount of the assessed value
180 of such improvements totaled more than five percent of the prior year appraised
181 value, such eligible owners shall be disqualified from receiving the credit in the
182 current tax year.

183 [10.] 7. The director shall calculate the level of appropriation necessary
184 [to set the homestead exemption limit at five percent when based on a year of
185 general reassessment or at two and one-half percent when based on a year
186 without general reassessment] for the [homesteads] **total amount of**
187 **homestead exemption credits** of all verified eligible owners, and provide such
188 calculation to the speaker of the house of representatives, the president pro
189 tempore of the senate, and the director of the office of budget and planning in the
190 office of administration by January thirty-first of each year.

191 [11. For applications made in 2005, the general assembly shall make an
192 appropriation for the funding of the homestead exemption credit that is signed
193 by the governor, then the director shall, by July thirty-first of such year, set the
194 homestead exemption limit. The limit shall be a single, statewide percentage
195 increase to tax liability, rounded to the nearest hundredth of a percent, which, if
196 applied to all homesteads of verified eligible owners who applied for the
197 homestead exemption credit in the immediately prior tax year, would cause all
198 but one-quarter of one percent of the amount of the appropriation, minus any
199 withholding by the governor, to be distributed during that fiscal year. The

200 remaining one-quarter of one percent shall be distributed to the county
201 assessment funds of each county on a proportional basis, based on the number of
202 eligible owners in each county; such one-quarter percent distribution shall be
203 delineated in any such appropriation as a separate line item in the total
204 appropriation. If no appropriation is made by the general assembly during any
205 tax year or no funds are actually distributed pursuant to any appropriation
206 therefor, then no homestead preservation credit shall apply in such year.

207 12. After setting the homestead exemption limit for applications made in
208 2005, the director shall apply the limit to the homestead of each verified eligible
209 owner and calculate the credit to be associated with each verified eligible owner's
210 homestead, if any. The director shall send a list of those eligible owners who are
211 to receive the homestead exemption credit, including the amount of each credit,
212 the certified parcel number of the homestead, and the address of the homestead
213 property, to the county collectors or county clerks in counties with a township
214 form of government by August thirty-first. Pursuant to such calculation, the
215 director shall instruct the state treasurer as to how to distribute the
216 appropriation and assessment fund allocation to the county collector's funds of
217 each county or the treasurer ex officio collector's fund in counties with a township
218 form of government where recipients of the homestead exemption credit are
219 located, so as to exactly offset each homestead exemption credit being issued, plus
220 the one-quarter of one percent distribution for the county assessment funds. As
221 a result of the appropriation, in no case shall a political subdivision receive more
222 money than it would have received absent the provisions of this section plus the
223 one-quarter of one percent distribution for the county assessment funds. Funds,
224 at the direction of the county collector or the treasurer ex officio collector in
225 counties with a township form of government, shall be deposited in the county
226 collector's fund of a county or the treasurer ex officio collector's fund or may be
227 sent by mail to the collector of a county, or the treasurer ex officio collector in
228 counties with a township form of government, not later than October first in any
229 year a homestead exemption credit is appropriated as a result of this section and
230 shall be distributed as moneys in such funds are commonly distributed from other
231 property tax revenues by the collector of the county or the treasurer ex officio
232 collector of the county in counties with a township form of government, so as to
233 exactly offset each homestead exemption credit being issued. In counties with a
234 township form of government, the county clerk shall provide the treasurer ex
235 officio collector a summary of the homestead exemption credit for each township

236 for the purpose of distributing the total homestead exemption credit to each
237 township collector in a particular county.

238 13.] 8. If, in any given year [after 2005], the general assembly [shall
239 make] **makes** an appropriation for the funding of the homestead exemption credit
240 that is signed by the governor, then the director shall determine the
241 apportionment percentage by equally apportioning the appropriation among all
242 eligible applicants on a percentage basis. If no appropriation is made by the
243 general assembly during any tax year or no funds are actually distributed
244 pursuant to any appropriation therefor, then no homestead preservation credit
245 shall apply in such year.

246 [14.] 9. After determining the apportionment percentage, the director
247 shall calculate the credit to be associated with each verified eligible owner's
248 homestead, if any. The director shall send a list of those eligible owners who are
249 to receive the homestead exemption credit, including the amount of each credit,
250 the certified parcel number of the homestead, and the address of the homestead
251 property, to the county collectors or county clerks in counties with a township
252 form of government by August thirty-first. Pursuant to such calculation, the
253 director shall instruct the state treasurer as to how to distribute the
254 appropriation to the county collector's fund of each county where recipients of the
255 homestead exemption credit are located, so as to exactly offset each homestead
256 exemption credit being issued. As a result of the appropriation, in no case shall
257 a political subdivision receive more money than it would have received absent the
258 provisions of this section. Funds, at the direction of the collector of the county
259 or treasurer ex officio collector in counties with a township form of government,
260 shall be deposited in the county collector's fund of a county or may be sent by
261 mail to the collector of a county, or treasurer ex officio collector in counties with
262 a township form of government, not later than October first in any year a
263 homestead exemption credit is appropriated as a result of this section and shall
264 be distributed as moneys in such funds are commonly distributed from other
265 property tax revenues by the collector of the county or the treasurer ex officio
266 collector of the county in counties with a township form of government, so as to
267 exactly offset each homestead exemption credit being issued.

268 [15.] 10. The department shall promulgate rules for implementation of
269 this section. Any rule or portion of a rule, as that term is defined in section
270 536.010, that is created under the authority delegated in this section shall
271 become effective only if it complies with and is subject to all of the provisions of

272 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
273 nonseverable and if any of the powers vested with the general assembly pursuant
274 to chapter 536 to review, to delay the effective date, or to disapprove and annul
275 a rule are subsequently held unconstitutional, then the grant of rulemaking
276 authority and any rule proposed or adopted after August 28, 2004, shall be
277 invalid and void. Any rule promulgated by the department shall in no way
278 impact, affect, interrupt, or interfere with the performance of the required
279 statutory duties of any county elected official, more particularly including the
280 county collector when performing such duties as deemed necessary for the
281 distribution of any homestead appropriation and the distribution of all other real
282 and personal property taxes.

283 [16.] 11. In the event that an eligible owner dies or transfers ownership
284 of the property [after the homestead exemption limit has been set in any given
285 year, but] prior to January first of the year in which the credit would otherwise
286 be applied, the credit shall be void and any corresponding moneys[, pursuant to
287 subsection 12 of this section,] shall lapse to the state to be credited to the general
288 revenue fund. In the event the collector of the county or the treasurer ex officio
289 collector of the county in counties with a township form of government determines
290 prior to issuing the credit that the individual is not an eligible owner because the
291 individual did not pay the prior three years' property tax liability in full, the
292 credit shall be void and any corresponding moneys, under subsection 11 of this
293 section, shall lapse to the state to be credited to the general revenue fund.

294 [17.] 12. This section shall apply to all tax years beginning on or after
295 January 1, [2005. This subsection shall become effective June 28, 2004] 2016.

296 [18. In accordance with the provisions of sections 23.250 to 23.298 and
297 unless otherwise authorized pursuant to section 23.253]

298 **13. The provisions of section 23.253 notwithstanding:**

299 (1) [Any new] **The** program authorized under the provisions of this
300 section shall **be authorized as of the effective date of this act and shall**
301 automatically sunset [six] **ten** years after the effective date of this section; and

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