

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 730

92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, January 29, 2004, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

2966S.03C

AN ACT

To amend chapter 137, RSMo, by adding thereto one new section relating to a homestead exemption for the elderly.

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

Section A. Chapter 137, RSMo, is amended by adding thereto one new section, 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) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the taxable year in which the individual is claiming the credit, and who had an income of equal to or less than the maximum upper limit in the prior taxable year; 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, and the combined income of the couple in the prior taxable year did not exceed the maximum upper limit plus four thousand dollars; no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior taxable years, except that a late payment of a property tax liability in any prior year, not including the immediate prior year, shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person

qualifies for the senior citizen property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

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

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

(6) "Income", as defined in section 135.010, RSMo;

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

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior taxable year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit as a result of an assessment conducted pursuant to subsection 1 of section 137.115, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current taxable year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current taxable year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent taxable year.

4. Any potential eligible owner may apply for the homestead exemption by completing an application through their local assessor's office. Applications may be completed between January first and September thirtieth of any taxable year in order for the taxpayer to be eligible for the homestead exemption credit in the next taxable year. The application shall be on forms provided to the assessor's office by the department. The applicant shall include:

- (1) The applicant's age;
- (2) The applicant's prior year Missouri taxable income;
- (3) The address of the homestead property;

(4) Copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior taxable years; and

(5) A disclosure of any improvements made to the homestead that totaled more than five percent of the prior year assessed valuation in any taxable year. Applicants shall attest that the information provided on the application is complete and accurate.

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

(1) Certify the actual homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate levy codes for each homestead from the county or township collector;

(3) Record on the application the tax liability on the homestead for the prior and current taxable years, adjusted to exclude any improvements in the current taxable year; and

(4) Send all applications to the department by October thirty-first of each year.

6. Upon receipt of the applications, the department shall verify the Missouri taxable income and age of the applicants, and make adjustments to these numbers as necessary on the applications. Once age and income is verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county or township collectors of this state by December first of each year. By January fifteenth, the county or township collectors shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the taxable year that ended immediately prior; such eligible owners shall be disqualified from receiving the credit in the current taxable year.

7. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

8. If, in any given year, the general assembly shall make an appropriation for the funding of the homestead exemption that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption in the immediately prior tax year, would cause all but one-quarter of one percent of the

amount of the appropriation actually distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county of this state on a proportional basis, based on the number of eligible owners in each county. If no appropriation is made by the general assembly during any taxable year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

9. After setting the homestead exemption limit, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead preservation credit, including the amount of the credit and the address of the homestead property, to the county or township collectors of this state by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the collection funds of each county where recipients of the homestead preservation credit are located, so as to exactly offset each tax credit being issued. Funds deposited in the collection funds of a county as a result of this section shall be distributed as moneys in such funds are commonly distributed from other property tax revenues, so as to exactly offset each tax credit being issued.

10. Determination of eligibility for the homestead exemption provided in this section regarding both the status of the owner and the status of property shall be based on the status of the owner and the property as of January first of each year; any income limits shall be based on the tax year prior to the year in which the exemption is applied.

11. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.