

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 630
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, February 2, 2006, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

3309S.03C

TERRY L. SPIELER, Secretary.

AN ACT

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

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

Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows:

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

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

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010, RSMo;

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

(a) In the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to [subsection 4 of] this section did not exceed the maximum upper limit; **or**

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

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

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

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

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

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;

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

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

74 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in
75 the prior tax year, the property tax liability on any parcel of subclass (1) real
76 property increased by more than the homestead exemption limit, without regard
77 for any prior credit received due to the provisions of this section, then any eligible
78 owner of the property shall receive a homestead exemption credit to be applied
79 in the current tax year property tax liability to offset the prior year increase to
80 tax liability that exceeds the homestead exemption limit, except as eligibility for
81 the credit is limited by the provisions of this section. The amount of the credit
82 shall be listed separately on each taxpayer's tax bill for the current tax year, or
83 on a document enclosed with the taxpayer's bill. The homestead exemption credit
84 shall not affect the process of setting the tax rate as required pursuant to article
85 X, section 22 of the Constitution of Missouri and section 137.073 in any prior,
86 current, or subsequent tax year.

87 4. If application is made in 2005, any potential eligible owner may apply
88 for the homestead exemption credit by completing an application through their
89 local assessor's office. Applications may be completed between April first and
90 September thirtieth of any tax year in order for the taxpayer to be eligible for the

91 homestead exemption credit in the tax year next following the calendar year in
92 which the homestead exemption credit application was completed. The
93 application shall be on forms provided to the assessor's office by the
94 department. Forms also shall be made available on the department's Internet
95 site and at all permanent branch offices and all full-time, temporary, or fee offices
96 maintained by the department of revenue. The applicant shall attest under
97 penalty of perjury:

- 98 (1) To the applicant's age;
99 (2) That the applicant's prior year income was less than the maximum
100 upper limit;
101 (3) To the address of the homestead property; and
102 (4) That any improvements made to the homestead, not made to
103 accommodate a disabled person, did not total more than five percent of the prior
104 year appraised value.

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

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

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

119 6. If application is made after 2005, any potential eligible owner may
120 apply for the homestead exemption credit by completing an
121 application. Applications may be completed between April first and [September
122 thirtieth] **October fifteenth** of any tax year in order for the taxpayer to be
123 eligible for the homestead exemption credit in the tax year next following the
124 calendar year in which the homestead exemption credit application was
125 completed. The application shall be on forms provided by the department. Forms
126 also shall be made available on the department's Internet site and at all

127 permanent branch offices and all full-time, temporary, or fee offices maintained
128 by the department of revenue. The applicant shall attest under penalty of
129 perjury:

130 (1) To the applicant's age;

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

133 (3) To the address of the homestead property;

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

137 (5) The applicant shall also include with the application copies of receipts
138 indicating payment of property tax by the applicant for the homestead property
139 for the three prior tax years.

140 7. Each applicant shall send the application to the department by
141 September thirtieth of each year for the taxpayer to be eligible for the homestead
142 exemption credit in the tax year next following the calendar year in which the
143 application was completed.

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

159 9. If application is made after 2005, upon receipt of the applications, the
160 department shall calculate the tax liability, verify compliance with the maximum
161 income limit, verify the age of the applicants, and make adjustments to these
162 numbers as necessary on the applications. The department also shall disallow

163 any application where the applicant also has filed a valid application for the
164 senior citizens property tax credit under sections 135.010 to 135.035,
165 RSMo. Once adjusted tax liability, age, and income are verified, the director shall
166 determine eligibility for the credit and provide a list of all verified eligible owners
167 to the county assessors or county clerks in counties with a township form of
168 government by December fifteenth of each year. By January fifteenth, the county
169 assessors shall provide a list to the department of any verified eligible owners
170 who made improvements not for accommodation of a disability to the homestead
171 and the dollar amount of the assessed value of such improvements. If the dollar
172 amount of the assessed value of such improvements totaled more than five
173 percent of the prior year appraised value, such eligible owners shall be
174 disqualified from receiving the credit in the current tax year.

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

182 11. For applications made in 2005, the general assembly shall make an
183 appropriation for the funding of the homestead exemption credit that is signed
184 by the governor, then the director shall, by July thirty-first of such year, set the
185 homestead exemption limit. The limit shall be a single, statewide percentage
186 increase to tax liability, rounded to the nearest hundredth of a percent, which, if
187 applied to all homesteads of verified eligible owners who applied for the
188 homestead exemption credit in the immediately prior tax year, would cause all
189 but one-quarter of one percent of the amount of the appropriation, minus any
190 withholding by the governor, to be distributed during that fiscal year. The
191 remaining one-quarter of one percent shall be distributed to the county
192 assessment funds of each county on a proportional basis, based on the number of
193 eligible owners in each county; such one-quarter percent distribution shall be
194 delineated in any such appropriation as a separate line item in the total
195 appropriation. If no appropriation is made by the general assembly during any
196 tax year or no funds are actually distributed pursuant to any appropriation
197 therefor, then no homestead preservation credit shall apply in such year.

198 12. After setting the homestead exemption limit for applications made in

199 2005, the director shall apply the limit to the homestead of each verified eligible
200 owner and calculate the credit to be associated with each verified eligible owner's
201 homestead, if any. The director shall send a list of those eligible owners who are
202 to receive the homestead exemption credit, including the amount of each credit,
203 the certified parcel number of the homestead, and the address of the homestead
204 property, to the county collectors or county clerks in counties with a township
205 form of government by August thirty-first. Pursuant to such calculation, the
206 director shall instruct the state treasurer as to how to distribute the
207 appropriation and assessment fund allocation to the county collector's funds of
208 each county or the treasurer ex officio collector's fund in counties with a township
209 form of government where recipients of the homestead exemption credit are
210 located, so as to exactly offset each homestead exemption credit being issued, plus
211 the one-quarter of one percent distribution for the county assessment funds. As
212 a result of the appropriation, in no case shall a political subdivision receive more
213 money than it would have received absent the provisions of this section plus the
214 one-quarter of one percent distribution for the county assessment funds. Funds,
215 at the direction of the county collector or the treasurer ex officio collector in
216 counties with a township form of government, shall be deposited in the county
217 collector's fund of a county or the treasurer ex officio collector's fund or may be
218 sent by mail to the collector of a county, or the treasurer ex officio collector in
219 counties with a township form of government, not later than October first in any
220 year a homestead exemption credit is appropriated as a result of this section and
221 shall be distributed as moneys in such funds are commonly distributed from other
222 property tax revenues by the collector of the county or the treasurer ex officio
223 collector of the county in counties with a township form of government, so as to
224 exactly offset each homestead exemption credit being issued. In counties with a
225 township form of government, the county clerk shall provide the treasurer ex
226 officio collector a summary of the homestead exemption credit for each township
227 for the purpose of distributing the total homestead exemption credit to each
228 township collector in a particular county.

229 13. If, in any given year after 2005, the general assembly shall make an
230 appropriation for the funding of the homestead exemption credit that is signed
231 by the governor, then the director shall, by July thirty-first of such year, set the
232 homestead exemption limit. The limit shall be a single, statewide percentage
233 increase to tax liability, rounded to the nearest hundredth of a percent, which, if
234 applied to all homesteads of verified eligible owners who applied for the

235 homestead exemption credit in the immediately prior tax year, would cause all
236 of the amount of the appropriation, minus any withholding by the governor, to be
237 distributed during that fiscal year. If no appropriation is made by the general
238 assembly during any tax year or no funds are actually distributed pursuant to
239 any appropriation therefor, then no homestead preservation credit shall apply in
240 such year.

241 14. After setting the homestead exemption limit for applications made
242 after 2005, the director shall apply the limit to the homestead of each verified
243 eligible owner and calculate the credit to be associated with each verified eligible
244 owner's homestead, if any. The director shall send a list of those eligible owners
245 who are to receive the homestead exemption credit, including the amount of each
246 credit, the certified parcel number of the homestead, and the address of the
247 homestead property, to the county collectors or county clerks in counties with a
248 township form of government by August thirty-first. Pursuant to such
249 calculation, the director shall instruct the state treasurer as to how to distribute
250 the appropriation to the county collector's fund of each county where recipients
251 of the homestead exemption credit are located, so as to exactly offset each
252 homestead exemption credit being issued. As a result of the appropriation, in no
253 case shall a political subdivision receive more money than it would have received
254 absent the provisions of this section. Funds, at the direction of the collector of
255 the county or treasurer ex officio collector in counties with a township form of
256 government, shall be deposited in the county collector's fund of a county or may
257 be sent by mail to the collector of a county, or treasurer ex officio collector in
258 counties with a township form of government, not later than October first in any
259 year a homestead exemption credit is appropriated as a result of this section and
260 shall be distributed as moneys in such funds are commonly distributed from other
261 property tax revenues by the collector of the county or the treasurer ex officio
262 collector of the county in counties with a township form of government, so as to
263 exactly offset each homestead exemption credit being issued.

264 15. The department shall promulgate rules for implementation of this
265 section. Any rule or portion of a rule, as that term is defined in section 536.010,
266 RSMo, that is created under the authority delegated in this section shall become
267 effective only if it complies with and is subject to all of the provisions of chapter
268 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
269 536, RSMo, are nonseverable and if any of the powers vested with the general
270 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,

271 or to disapprove and annul a rule are subsequently held unconstitutional, then
272 the grant of rulemaking authority and any rule proposed or adopted after August
273 28, 2004, shall be invalid and void. Any rule promulgated by the department
274 shall in no way impact, affect, interrupt, or interfere with the performance of the
275 required statutory duties of any county elected official, more particularly
276 including the county collector when performing such duties as deemed necessary
277 for the distribution of any homestead appropriation and the distribution of all
278 other real and personal property taxes.

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

290 17. This section shall apply to all tax years beginning on or after January
291 1, 2005. This subsection shall become effective June 28, 2004.

292 18. In accordance with the provisions of sections 23.250 to 23.298, RSMo,
293 and unless otherwise authorized pursuant to section 23.253, RSMo:

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

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

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