

SENATE SUBSTITUTE

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HOUSE BILLS NOS. 517, 94, 149, 150 & 342

AN ACT

To repeal section 208.565, RSMo, and to enact in lieu thereof two new sections relating to stabilization of income for the elderly, with an emergency clause and an effective date for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Section 208.565, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections 137.106
3 and 208.565, to read as follows:

4 137.106. 1. This section may be known and may be cited as
5 "The Missouri Homestead Preservation Act".

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

7 (1) "Eligible owner", any individual owner of property who
8 is permanently disabled or who is sixty-five years old or older
9 as of January first of any taxable year, and who had an income of
10 equal to or less than the maximum upper limit in the prior
11 taxable year; in the case of a married couple owning property
12 either jointly or as tenants by the entirety, or where only one

1 spouse owns the property, such couple shall be considered an
2 eligible taxpayer if both spouses have reached the age of sixty-
3 five or if one spouse is disabled as of January first of any
4 taxable year, and the combined income of the couple in the prior
5 taxable year did not exceed twice the maximum upper limit;

6 (2) "Homestead", as such term is defined pursuant to
7 section 135.010, RSMo, except as limited by provisions of this
8 section to the contrary;

9 (3) "Maximum upper limit", in the calendar year 2004, the
10 gross income sum of twenty-five thousand dollars; in each
11 successive calendar year this amount shall be raised by the
12 incremental increase in the general price level, as defined
13 pursuant to article X, section 17 of the Missouri Constitution;

14 (4) "Permanently disabled", the permanent and total
15 incapacitation from performing any work, occupation, or vocation
16 of any kind whatsoever;

17 (5) "Property tax due", the actual aggregate property tax
18 liability attributed to an eligible owner of a homestead,
19 excluding:

20 (a) Increases due to new construction or improvements;

21 (b) Increases due to any voter approved new or modified tax
22 levy; and

23 (c) Increases due to a change to the assessed valuation as
24 a result of the property being sold, devised, or otherwise
25 changing ownership.

26 3. Pursuant to article X, section 6(a) of the Constitution
27 of Missouri, if any taxing jurisdiction, or aggregation of taxing
28 jurisdictions, shall increase the amount of property tax due by

1 any eligible owner on any parcel of subclass (1) real property by
2 more than five percent as a result of an assessment conducted
3 pursuant to subsection 1 of section 137.115, then the taxing
4 authority shall exempt a portion of the assessed valuation of the
5 property such that the tax due by the eligible owner of the
6 homestead does not exceed a five percent increase in the amount
7 of tax due by the eligible owner of the homestead per annual
8 assessment period. The corresponding amount of tax liability
9 exempted shall be listed separately on each taxpayer's tax bill.

10 4. Notwithstanding other provisions of law, any eligible
11 owner or governing body of a taxing jurisdiction shall have
12 standing to bring suit in a circuit court of proper venue to
13 enforce the provisions of this section, and, if the suit is
14 sustained, shall receive from the applicable unit of government
15 his or her costs, including reasonable attorneys' fees incurred
16 in maintaining such suit.

17 5. For purposes of determining the limitation on
18 indebtedness of local government pursuant to article VI, section
19 26(b) of the Missouri Constitution, in any political subdivision
20 where any taxpayer qualifies for the homestead exemption provided
21 in this section, the actual current equalized assessed value of
22 the property notwithstanding any exception allowed pursuant to
23 this section shall be included in the value of taxable tangible
24 property as shown on the last completed assessment for state or
25 county purposes.

26 6. The county assessor shall include the actual current
27 equalized assessed value as described in subsection 5 of this
28 section of all property within the taxing district in the

1 aggregate valuation of assessed property entered upon the
2 assessor's book and verified pursuant to section 137.245, and
3 such value shall be utilized for the purpose of the debt
4 limitation on local government pursuant to article VI, section
5 26(b) of the Missouri Constitution;

6 7. No person claiming a homestead exemption pursuant to
7 this section shall be eligible to claim the property tax credit
8 allowed in sections 135.010 to 135.035, RSMo, and no person
9 claiming the property tax credit allowed in sections 135.010 to
10 135.035, RSMo, shall be eligible to claim the homestead exemption
11 pursuant to this section.

12 8. Prior to February first of each year, the division of
13 oversight of the joint committee on legislative research shall
14 provide the general assembly with an estimated appropriation
15 necessary to compensate the taxing jurisdictions of this state
16 for revenue that is projected to be lost in the current tax year
17 pursuant to the provisions of this section. In cooperation with
18 the state tax commission, this estimate shall include appropriate
19 data for a pro rata distribution to each taxing jurisdiction of
20 the appropriation authorized in this subsection. If the general
21 assembly shall appropriate the funds pursuant to such estimate
22 during the same regular session as when the estimate is
23 submitted, which appropriation is hereby authorized, then each
24 county and city not within a county shall send verification to
25 the commissioner of the office of administration of the actual
26 appropriation necessary to compensate the taxing jurisdictions of
27 such county for the revenue that is projected to be lost in that
28 tax year, by September first of such year. Following such

1 verification, the commissioner of administration shall credit
2 that portion of the appropriated funds designated for homestead
3 exemption reimbursement to the treasury of each county or city
4 not within a county which is equal to the amount verified by such
5 county or city. If the aggregate sum of verified amounts exceeds
6 the appropriation, then the amount directed to each county shall
7 be reduced pro rata according to the actual amount of revenue
8 verified by such county or city not within a county. If the
9 actual amount deposited in the treasury of a county or a city not
10 with a county is less than the verified amount submitted by such
11 city or county, then the collector shall apply all available
12 revenue pro rata based on tax liability to each eligible taxpayer
13 meeting the requirements of subsections 1 to 7 of this section.
14 Where a taxing jurisdiction lies in more than one county, the
15 taxing jurisdiction shall be deemed to be in the jurisdiction
16 where the majority of its land area is located for the purposes
17 of this subsection. If, for any given year, no appropriation is
18 made for the purpose of homestead exemption reimbursement, than
19 no homestead exemption shall be available in such year.

20 9. Determination of eligibility for the homestead exemption
21 provided in this section regarding both the status of the owner
22 and the status of property shall be made as of January 1 of each
23 year. This section shall become effective January 1, 2005, and
24 shall apply to all taxable years beginning after December 31,
25 2004, and shall only apply to first class and charter counties
26 and cities not within a county.

27 10. The state tax commission shall promulgate rules for
28 implementation of this section. Any rule or portion of a rule,

1 as that term is defined in section 536.010, RSMo, that is created
2 under the authority delegated in this section shall become
3 effective only if it complies with and is subject to all of the
4 provisions of chapter 536, RSMo, and, if applicable, section
5 536.028, RSMo. This section and chapter 536, RSMo, are
6 nonseverable and if any of the powers vested with the general
7 assembly pursuant to chapter 536, RSMo, to review, to delay the
8 effective date, or to disapprove and annul a rule are
9 subsequently held unconstitutional, then the grant of rulemaking
10 authority and any rule proposed or adopted after August 28, 2003,
11 shall be invalid and void.

12 208.565. 1. The [division] department of health and senior
13 services shall negotiate with manufacturers for participation in
14 the program. The [division] department of health and senior
15 services shall issue a certificate of participation to
16 pharmaceutical manufacturers participating in the Missouri Senior
17 Rx program. A pharmaceutical manufacturer may apply for
18 participation in the program with an application form prescribed
19 by the commission. A certificate of participation shall remain
20 in effect for an initial period of not less than one year and
21 shall be automatically renewed unless terminated by either the
22 manufacturer or the state with sixty days' notification.

23 2. For all transactions occurring prior to July 1, 2003,
24 the rebate amount for each drug shall be fifteen percent of the
25 average manufacturer's price as defined in 42 U.S.C. Section
26 1396r-8(k)(1). For all transactions occurring on and after July
27 1, 2003, the rebate amount for [each drug] name brand
28 prescription drugs shall be fifteen percent and the rebate amount

1 for generic prescription drugs shall be eleven percent of the
2 average manufacturers' price as defined pursuant to 42 U.S.C.
3 Section 1396r-8(k)(1). No other discounts shall apply. In order
4 to receive a certificate of participation a manufacturer or
5 distributor participating in the Missouri Senior Rx program shall
6 provide the [division of aging] department of health and senior
7 services the average manufacturers' price for their contracted
8 products. The following shall apply to the providing of average
9 manufacturers' price information to the [division of aging]
10 department of health and senior services:

11 (1) Any manufacturer or distributor with an agreement under
12 this section that knowingly provides false information is subject
13 to a civil penalty in an amount not to exceed one hundred
14 thousand dollars for each provision of false information. Such
15 penalties shall be in addition to other penalties as prescribed
16 by law;

17 (2) Notwithstanding any other provision of law, information
18 disclosed by manufacturers or wholesalers pursuant to this
19 subsection or under an agreement with the [division] department
20 of health and senior services pursuant to this section is
21 confidential and shall not be disclosed by the [division]
22 department of health and senior services or any other state
23 agency or contractor therein in any form which discloses the
24 identity of a specific manufacturer or wholesaler or prices
25 charged for drugs by such manufacturer or wholesaler, except to
26 permit the state auditor to review the information provided and
27 the [division of medical services] department of health and
28 senior services for rebate administration.

1 3. All rebates received through the program shall be used
2 toward refunding the program. If a pharmaceutical manufacturer
3 refuses to participate in the rebate program, such refusal shall
4 not affect the manufacturer's status under the current Medicaid
5 program. There shall be no drug formulary, prior approval
6 system, or any similar restriction imposed on the coverage of
7 outpatient drugs made by pharmaceutical manufacturers who have
8 agreements to pay rebates for drugs utilized in the Missouri
9 Senior Rx program, provided that such outpatient drugs were
10 approved by the Food and Drug Administration.

11 4. Any prescription drug of a manufacturer that does not
12 participate in the program shall not be reimbursable.

13 Section B. Because immediate action is necessary to ensure
14 the fiscal stability of the Senior Rx program, the repeal and
15 reenactment of section 208.565 of section A of this act is deemed
16 necessary for the immediate preservation of the public health,
17 welfare, peace, and safety, and is hereby declared to be an
18 emergency act within the meaning of the constitution, and the
19 repeal and reenactment of section 208.565 of section A of this
20 act shall be in full force and effect upon its passage and
21 approval.