

FIRST REGULAR SESSION

# HOUSE BILL NO. 373

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FARES (Sponsor), SUTHERLAND, BIVINS, ST. ONGE,  
SCHLOTTACH AND SCHOEMEHL (Co-sponsors).

Read 1<sup>st</sup> time January 27, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1259L.011

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### AN ACT

To repeal sections 135.010, 135.025, and 135.030, RSMo, and to enact in lieu thereof three new sections relating to the senior citizens' homestead tax relief act.

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

Section A. Sections 135.010, 135.025, and 135.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.010, 135.025, and 135.030, to read as follows:

135.010. **1. Sections 135.010 to 135.035 shall be known and may be cited as the "Senior Citizens' Homestead Tax Relief Act".**

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 if the claimant has reached the age of sixty on or before the last day of the calendar year and such  
16 claimant received surviving spouse Social Security benefits during the calendar year and the  
17 claimant provides proof, as required by the director of revenue, that the claimant received  
18 surviving spouse Social Security benefits during the calendar year for which the credit will be  
19 claimed. The residency requirement shall be deemed to have been fulfilled for the purpose of  
20 determining the eligibility of a surviving spouse for a property tax credit if a person of the age  
21 of sixty-five years or older who would have otherwise met the requirements for a property tax  
22 credit dies before the last day of the calendar year. The residency requirement shall also be  
23 deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who  
24 would have otherwise met the requirements for a property tax credit but who dies before the last  
25 day of the calendar year;

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

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

45 (4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to  
46 exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a  
47 home. It may consist of part of a multidwelling or multipurpose building and part of the land  
48 upon which it is built. "Owned" includes a vendee in possession under a land contract and one  
49 or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant  
50 actually in possession if he was the immediate former owner of record, if a lineal descendant is

51 presently the owner of record, and if the claimant actually pays all taxes upon the property. It  
52 may include a mobile home;

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

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

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

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

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

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

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

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

135.025. The property taxes accrued and rent constituting property taxes accrued on each

2 return shall be totaled. This total, up to [seven] **eight** hundred [fifty] dollars, shall be used in  
3 determining the property tax credit. The director of revenue shall prescribe regulations providing  
4 for allocations where part of a claimant's homestead is rented to another or used for nondwelling  
5 purposes or where a homestead is owned or rented or used as a dwelling for part of a year.

135.030. 1. As used in this section:

2 (1) The term "maximum upper limit" shall, [in the calendar year 1989, be the sum of  
3 thirteen thousand five hundred dollars. For each calendar year through December 31, 1992, the  
4 maximum upper limit shall be increased by five hundred dollars per year. For calendar years  
5 after December 31, 1992, and prior to calendar year 1998, the maximum upper limit shall be the  
6 sum used on December 31, 1992. For] **for** each calendar year after December 31, 1997, [the  
7 maximum upper limit shall] **but before calendar year 2006**, be the sum of twenty-five thousand  
8 dollars. **For the calendar year beginning on January 1, 2006, the maximum upper limit**  
9 **shall be the sum of twenty-five thousand five hundred dollars;**

10 (2) The term "minimum base" shall, [in the calendar year 1989, be the sum of five  
11 thousand dollars. For each succeeding calendar year through December 31, 1992, the minimum  
12 base shall be increased, in one hundred-dollar increments, by the same percentage as the increase  
13 in the general price level as measured by the Consumer Price Index for All Urban Consumers  
14 for the United States, or its successor index, as defined and officially recorded by the United  
15 States Department of Labor, or its successor agency, or five percent, whichever is greater. The  
16 increase in the index shall be that as first published by the Department of Labor for the calendar  
17 year immediately preceding the year in which the minimum base is calculated. For calendar  
18 years after December 31, 1992, and prior to calendar year 1998, the minimum base shall be the  
19 sum used on December 31, 1992. For] **for** each calendar year after December 31, 1997, [the  
20 minimum base shall] **but before calendar year 2006**, be the sum of thirteen thousand dollars.  
21 **For the calendar year beginning January 1, 2006, the minimum base shall be the sum of**  
22 **thirteen thousand three hundred dollars.**

23 2. [When calculating the minimum base for purposes of this section, whenever the  
24 increase in the Consumer Price Index used in the calculation would result in a figure which is  
25 greater than one one-hundred-dollar increment but less than another one-hundred-dollar  
26 increment, the director of revenue shall always round that figure off to the next higher  
27 one-hundred-dollar increment when determining the table of credits under this section.

28 3.] If the income on a return is equal to or less than the maximum upper limit for the  
29 calendar year for which the return is filed, the property tax credit shall be determined from a table  
30 of credits based upon the amount by which the total property tax described in section 135.025  
31 exceeds the percent of income in the following list:

32 If the income on the return is:

The percent is:

33	Not over the minimum base	0 percent with credit not
34		to exceed actual property
35		tax or rent equivalent
36		paid up to [ <del>\$750</del> ] <b>\$800</b>
37	Over the minimum base but	1/16 percent accumulative
38	not over the maximum upper	per \$300 from 0 percent limit
39		to 4 percent.

40

41 The director of revenue shall prescribe a table based upon the preceding sentences. The property  
 42 tax shall be in increments of twenty-five dollars and the income in increments of three hundred  
 43 dollars. The credit shall be the amount rounded to the nearest whole dollar computed on the  
 44 basis of the property tax and income at the midpoints of each increment. As used in this  
 45 subsection, the term "accumulative" means an increase by continuous or repeated application of  
 46 the percent to the income increment at each three hundred dollar level.

47 [4.] **3.** Notwithstanding [the provision of] subsection 4 of section 32.057, RSMo, the  
 48 department of revenue or any duly authorized employee or agent shall determine whether any  
 49 taxpayer filing a report or return with the department of revenue who has not applied for the  
 50 credit allowed pursuant to section 135.020 may qualify for the credit, and shall notify any  
 51 qualified claimant of [his or her] **the claimant's** potential eligibility, where the department  
 52 determines such potential eligibility exists.