

FIRST REGULAR SESSION

HOUSE BILL NO. 966

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor) AND LEMBKE (Co-sponsor).

Read 1st time April 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2187L.011

AN ACT

To repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to property tax relief, with an effective date.

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Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.108, to read as follows:

137.108. 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) "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;

(2) "Revenue lost", a decrease in the revenues from taxes owned on real property subclassified as residential property in section 4(b), article X, Constitution of Missouri, per political subdivision, when compared to revenues from taxes owned on such real property in the immediately preceding year, increased for inflation by two and one-half percent per year.

3. The tax generated from the assessed value of residential property, excluding any value added by new construction, improvements, or sale of residential property, which is owned and occupied by any person who has used such property as a homestead for a period of at least five years, shall not increase during the period of time such person resides

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.

17 on that property.

18 **4. Any political subdivision sustaining revenue lost as a result of the limitation on**
19 **taxation of assessed valuations shall adjust any rates of levy to compensate for such**
20 **revenue loss in setting the tax rate as required pursuant to section 137.073.**

21 **5. Data substantiating revenue losses resulting from the limitation on assessed**
22 **valuations as contained in this section shall be provided to the state auditor in such form**
23 **as shall be prescribed by the state auditor by rule promulgated pursuant to chapter 536,**
24 **RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that**
25 **is created under the authority delegated in this section shall become effective only if it**
26 **complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
27 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
28 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
29 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
30 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
31 **adopted after August 28, 2005, shall be invalid and void.**

32 **6. The required data shall be submitted for each political subdivision levying a**
33 **property tax and shall be submitted by either the county or the individual taxing authority**
34 **as requested by the state auditor. Calculation or verification of the revenue loss shall be**
35 **determined by the state auditor subsequent to the annual property tax rate review**
36 **completed pursuant to section 137.073. All data and documents substantiating the revenue**
37 **loss for each political subdivision shall be copied to each county clerk respectively and shall**
38 **be retained and made available for public inspection by the county for a minimum of three**
39 **years. Whenever a taxpayer in a taxing jurisdiction has cause to believe that the taxing**
40 **jurisdiction has not complied with this section, the taxpayer shall have legal standing to**
41 **bring a civil action to determine and require compliance with this section.**

42 **7. In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless**
43 **otherwise authorized pursuant to section 23.253, RSMo:**

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

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

2 [137.106. 1. This section may be known and may be cited as "The
3 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, RSMo;
- 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 subsection 4 of this section; in the case of a married couple owning
- 12 property either jointly or as tenants by the entirety, or where only one spouse
- 13 owns the property, such couple shall be considered an eligible taxpayer if both
- 14 spouses have reached the age of sixty-five or if one spouse is disabled, or if one
- 15 spouse is at least sixty-five years old and the other spouse is at least sixty years
- 16 old, and the combined income of the couple in the year prior to completing an
- 17 application pursuant to subsection 4 of this section did not exceed the maximum
- 18 upper limit; no individual shall be an eligible owner if the individual has not paid
- 19 their property tax liability, if any, in full by the payment due date in any of the
- 20 three prior tax years, except that a late payment of a property tax liability in any
- 21 prior year, not including the year in which the application was completed, shall
- 22 not disqualify a potential eligible owner if such owner paid in full the tax liability
- 23 and any and all penalties, additions and interest that arose as a result of such late
- 24 payment; no individual shall be an eligible owner if such person qualifies for the
- 25 senior citizens property tax relief credit pursuant to sections 135.010 to 135.035,
- 26 RSMo;
- 27 (5) "Homestead", as such term is defined pursuant to section 135.010,
- 28 RSMo, except as limited by provisions of this section to the contrary. No
- 29 property shall be considered a homestead if such property was improved since the
- 30 most recent annual assessment by more than five percent of the prior year
- 31 appraised value;
- 32 (6) "Homestead exemption limit", a percentage increase, rounded to the
- 33 nearest hundredth of a percent, which shall be equal to the percentage increase
- 34 to tax liability, not including improvements, of a homestead from one tax year to
- 35 the next that exceeds a certain percentage set pursuant to subsection 8 of this
- 36 section;
- 37 (7) "Income", federal adjusted gross income;
- 38 (8) "Maximum upper limit", in the calendar year 2005, the income sum
- 39 of seventy thousand dollars; in each successive calendar year this amount shall
- 40 be raised by the incremental increase in the general price level, as defined
- 41 pursuant to article X, section 17 of the Missouri Constitution.
- 42 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if
- 43 in the prior tax year, the property tax liability on any parcel of subclass (1) real
- 44 property increased by more than the homestead exemption limit, without regard
- 45 for any prior credit received due to the provisions of this section, then any
- 46 eligible owner of the property shall receive a homestead exemption credit to be
- 47 applied in the current tax year property tax liability to offset the prior year

48 increase to tax liability that exceeds the homestead exemption limit, except as
49 eligibility for the credit is limited by the provisions of this section. The amount
50 of the credit shall be listed separately on each taxpayer's tax bill for the current
51 tax year, or on a document enclosed with the taxpayer's bill. The homestead
52 exemption credit shall not affect the process of setting the tax rate as required
53 pursuant to article X, section 22 of the Constitution of Missouri and section
54 137.073 in any prior, current, or subsequent tax year.

55 4. Any potential eligible owner may apply for the homestead exemption
56 credit by completing an application through their local assessor's office.
57 Applications may be completed between April first and September thirtieth of
58 any tax year in order for the taxpayer to be eligible for the homestead exemption
59 credit in the tax year next following the calendar year in which the homestead
60 exemption credit application was completed. The application shall be on forms
61 provided to the assessor's office by the department. Forms also shall be made
62 available on the department's Internet site and at all permanent branch offices and
63 all full-time, temporary, or fee offices maintained by the department of revenue.
64 The applicant shall attest under penalty of perjury:

- 65 (1) To the applicant's age;
66 (2) That the applicant's prior year income was less than the maximum
67 upper limit;
68 (3) To the address of the homestead property; and
69 (4) That any improvements made to the homestead did not total more
70 than five percent of the prior year appraised value.

71
72 The applicant shall also include with the application copies of receipts indicating
73 payment of property tax by the applicant for the homestead property for the two
74 prior tax years.

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

- 76 (1) Certify the parcel number and owner of record as of January first of
77 the homestead, including verification of the acreage classified as residential on
78 the assessor's property record card;
79 (2) Obtain appropriate prior tax year levy codes for each homestead from
80 the county clerks;
81 (3) Record on the application the assessed valuation of the homestead for
82 the current tax year, and any new construction or improvements for the current
83 tax year; and
84 (4) Sign the application, certifying the accuracy of the assessor's entries.

85 6. Each applicant shall send the application to the department by
86 September thirtieth of each year for the taxpayer to be eligible for the homestead
87 exemption credit in the tax year next following the calendar year in which the
88 application was completed.

89 7. Upon receipt of the applications, the department shall calculate the tax
90 liability, adjusted to exclude new construction or improvements, verify

91 compliance with the maximum income limit, verify the age of the applicants, and
92 make adjustments to these numbers as necessary on the applications. The
93 department also shall disallow any application where the applicant has also filed
94 a valid application for the senior citizens property tax credit, pursuant to sections
95 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are
96 verified, the director shall determine eligibility for the credit, and provide a list
97 of all verified eligible owners to the county collectors or county clerks in counties
98 with a township form of government by December fifteenth of each year. By
99 January fifteenth, the county collectors or county clerks in counties with a
100 township form of government shall provide a list to the department of any
101 verified eligible owners who failed to pay the property tax due for the tax year
102 that ended immediately prior. Such eligible owners shall be disqualified from
103 receiving the credit in the current tax year.

104 8. The director shall calculate the level of appropriation necessary to set
105 the homestead exemption limit at five percent when based on a year of general
106 reassessment or at two and one-half percent when based on a year without general
107 reassessment for the homesteads of all verified eligible owners, and provide such
108 calculation to the speaker of the house of representatives, the president pro
109 tempore of the senate, and the director of the office of budget and planning in the
110 office of administration by January thirty-first of each year.

111 9. If, in any given year, the general assembly shall make an appropriation
112 for the funding of the homestead exemption credit that is signed by the governor,
113 then the director shall, by July thirty-first of such year, set the homestead
114 exemption limit. The limit shall be a single, statewide percentage increase to tax
115 liability, rounded to the nearest hundredth of a percent, which, if applied to all
116 homesteads of verified eligible owners who applied for the homestead exemption
117 credit in the immediately prior tax year, would cause all but one-quarter of one
118 percent of the amount of the appropriation, minus any withholding by the
119 governor, to be distributed during that fiscal year. The remaining one-quarter of
120 one percent shall be distributed to the county assessment funds of each county on
121 a proportional basis, based on the number of eligible owners in each county; such
122 one-quarter percent distribution shall be delineated in any such appropriation as
123 a separate line item in the total appropriation. If no appropriation is made by the
124 general assembly during any tax year or no funds are actually distributed pursuant
125 to any appropriation therefor, then no homestead preservation credit shall apply
126 in such year.

127 10. After setting the homestead exemption limit, the director shall apply
128 the limit to the homestead of each verified eligible owner and calculate the credit
129 to be associated with each verified eligible owner's homestead, if any. The
130 director shall send a list of those eligible owners who are to receive the
131 homestead exemption credit, including the amount of each credit, the certified
132 parcel number of the homestead, and the address of the homestead property, to
133 the county collectors or county clerks in counties with a township form of

134 government by August thirty-first. Pursuant to such calculation, the director shall
135 instruct the state treasurer as to how to distribute the appropriation to the county
136 collector's funds of each county where recipients of the homestead exemption
137 credit are located, so as to exactly offset each homestead exemption credit being
138 issued, plus the one-quarter of one percent distribution for the county assessment
139 funds. As a result of the appropriation, in no case shall a political subdivision
140 receive more money than it would have received absent the provisions of this
141 section plus the one-quarter of one percent distribution for the county assessment
142 funds. Funds, at the direction of the county collector, shall be deposited in the
143 county collector's fund of a county or may be sent by mail to the collector of a
144 county not later than October first in any year a homestead exemption credit is
145 appropriated as a result of this section and shall be distributed as moneys in such
146 funds are commonly distributed from other property tax revenues, so as to exactly
147 offset each homestead exemption credit being issued.

148 11. The department shall promulgate rules for implementation of this
149 section. Any rule or portion of a rule, as that term is defined in section 536.010,
150 RSMo, that is created under the authority delegated in this section shall become
151 effective only if it complies with and is subject to all of the provisions of chapter
152 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
153 536, RSMo, are nonseverable and if any of the powers vested with the general
154 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
155 or to disapprove and annul a rule are subsequently held unconstitutional, then the
156 grant of rulemaking authority and any rule proposed or adopted after August 28,
157 2004, shall be invalid and void. Any rule promulgated by the department shall
158 in no way impact, affect, interrupt, or interfere with the performance of the
159 required statutory duties of any county elected official, more particularly
160 including the county collector when performing such duties as deemed necessary
161 for the distribution of any homestead appropriation and the distribution of all
162 other real and personal property taxes.

163 12. In the event that an eligible owner dies or transfers ownership of the
164 property after the homestead exemption limit has been set in any given year, but
165 prior to the mailing of the tax bill, the credit shall be void and any corresponding
166 moneys, pursuant to subsection 10 of this section, shall lapse to the state to be
167 credited to the general revenue fund.

168 13. This section shall apply to all tax years beginning on or after January
169 1, 2005. This subsection shall become effective June 28, 2004.

170 14. In accordance with the provisions of sections 23.250 to 23.298,
171 RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

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

174 (2) This section shall terminate on September first of the year following
175 the year in which any new program authorized under this section is sunset, and
176 the revisor of statutes shall designate such sections and this section in a revision

177 bill for repeal.]

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Section B. Section A of this act shall become effective January 1, 2006.