

SECOND REGULAR SESSION

HOUSE BILL NO. 1808

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor), LEMBKE, DEMPSEY, ICET, WOOD, RICHARD, AVERY, CUNNINGHAM (86), DUSENBERG, FAITH, NIEVES, WASSON, ST. ONGE, MOORE, MUNZLINGER, MCGHEE, SCHNEIDER, DIXON, SMITH (14), NOLTE, YAEGER, RUESTMAN, SANDERS BROOKS, YOUNG, WETER, WILDBERGER AND WILSON (130) (Co-sponsors).

Read 1st time February 16, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5066L.011

AN ACT

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

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Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows: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

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.

13 have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least
14 sixty-five years old and the other spouse is at least sixty years old, and the combined income of
15 the couple in the year prior to completing an application pursuant to subsection 4 of this section
16 did not exceed the maximum upper limit; in the case of property held in trust, the eligible owner
17 and recipient of the tax credit shall be the trust itself provided the previous owner of the
18 homestead or the previous owner's spouse: is the settlor of the trust with respect to the
19 homestead; currently resides in such homestead; and but for the transfer of such property would
20 have satisfied the age, ownership, and maximum upper limit requirements for income as defined
21 in subdivisions (7) and (8) of this subsection; no individual shall be an eligible owner if the
22 individual has not paid [their] **the individual's** property tax liability, if any, in full by the
23 payment due date in any of the three prior tax years, except that a late payment of a property tax
24 liability in any prior year shall not disqualify a potential eligible owner if such owner paid in full
25 the tax liability and any and all penalties, additions and interest that arose as a result of such late
26 payment; no individual shall be an eligible owner if such person filed a valid claim for the senior
27 citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

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

33 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest
34 hundredth of a percent, which shall be equal to the percentage increase to tax liability, not
35 including improvements, of a homestead from one tax year to the next that exceeds a certain
36 percentage set pursuant to subsection 10 of this section. For applications filed in 2005 or 2006,
37 the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005.
38 For applications filed between April 1, 2005, and September 30, 2006, an eligible owner, who
39 otherwise satisfied the requirements of this section, shall not apply for the homestead exemption
40 credit more than once during such period. For applications filed after 2006, the homestead
41 exemption limit shall be based on the increase to tax liability from two years prior to application
42 to the year immediately prior to application;

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

46 (8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy
47 thousand dollars; in each successive calendar year this amount shall be raised by the incremental

48 increase in the general price level, as defined pursuant to article X, section 17 of the Missouri
49 Constitution.

50 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax
51 year, the property tax liability on any parcel of subclass (1) real property increased by more than
52 the homestead exemption limit, without regard for any prior credit received due to the provisions
53 of this section, then any eligible owner of the property shall receive a homestead exemption
54 credit to be applied in the current tax year property tax liability to offset the prior year increase
55 to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is
56 limited by the provisions of this section. The amount of the credit shall be listed separately on
57 each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's
58 bill. The homestead exemption credit shall not affect the process of setting the tax rate as
59 required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in
60 any prior, current, or subsequent tax year.

61 4. If application is made in 2005, any potential eligible owner may apply for the
62 homestead exemption credit by completing an application through their local assessor's office.
63 Applications may be completed between April first and September thirtieth of any tax year in
64 order for the taxpayer to be eligible for the homestead exemption credit in the tax year next
65 following the calendar year in which the homestead exemption credit application was completed.
66 The application shall be on forms provided to the assessor's office by the department. Forms also
67 shall be made available on the department's Internet site and at all permanent branch offices and
68 all full-time, temporary, or fee offices maintained by the department of revenue. The applicant
69 shall attest under penalty of perjury:

- 70 (1) To the applicant's age;
71 (2) That the applicant's prior year income was less than the maximum upper limit;
72 (3) To the address of the homestead property; and
73 (4) That any improvements made to the homestead, not made to accommodate a disabled
74 person, did not total more than five percent of the prior year appraised value.

75

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

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

79 (1) Certify the parcel number and owner of record as of January first of the homestead,
80 including verification of the acreage classified as residential on the assessor's property record
81 card;

82 (2) Obtain appropriate prior tax year levy codes for each homestead from the county
83 clerks for inclusion on the form;

84 (3) Record on the application the assessed valuation of the homestead for the current tax
85 year, and any new construction or improvements for the current tax year; and

86 (4) Sign the application, certifying the accuracy of the assessor's entries.

87 6. If application is made after 2005, any potential eligible owner may apply for the
88 homestead exemption credit by completing an application. Applications may be completed
89 between April first and September thirtieth of any tax year in order for the taxpayer to be eligible
90 for the homestead exemption credit in the tax year next following the calendar year in which the
91 homestead exemption credit application was completed. The application shall be on forms
92 provided by the department. Forms also shall be made available on the department's Internet site
93 and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the
94 department of revenue. The applicant shall attest under penalty of perjury:

95 (1) To the applicant's age;

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

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

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

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

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

105 8. If application is made in 2005, upon receipt of the applications, the department shall
106 calculate the tax liability, adjusted to exclude new construction or improvements, verify
107 compliance with the maximum income limit, verify the age of the applicants, and make
108 adjustments to these numbers as necessary on the applications. The department also shall
109 disallow any application where the applicant has also filed a valid application for the senior
110 citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax
111 liability, age, and income are verified, the director shall determine eligibility for the credit, and
112 provide a list of all verified eligible owners to the county collectors or county clerks in counties
113 with a township form of government by December fifteenth of each year. By January fifteenth,
114 the county collectors or county clerks in counties with a township form of government shall
115 provide a list to the department of any verified eligible owners who failed to pay the property tax
116 due for the tax year that ended immediately prior. Such eligible owners shall be disqualified
117 from receiving the credit in the current tax year.

118 9. If application is made after 2005, upon receipt of the applications, the department shall
119 calculate the tax liability, verify compliance with the maximum income limit, verify the age of

the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at [five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment] **two and one-half 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.

11. For applications made in 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit 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 credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

12. After setting the homestead exemption limit for applications made in 2005, 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 exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form

156 of government by August thirty-first. Pursuant to such calculation, the director shall instruct the
157 state treasurer as to how to distribute the appropriation and assessment fund allocation to the
158 county collector's funds of each county or the treasurer ex officio collector's fund in counties with
159 a township form of government where recipients of the homestead exemption credit are located,
160 so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one
161 percent distribution for the county assessment funds. As a result of the appropriation, in no case
162 shall a political subdivision receive more money than it would have received absent the
163 provisions of this section plus the one-quarter of one percent distribution for the county
164 assessment funds. Funds, at the direction of the county collector or the treasurer ex officio
165 collector in counties with a township form of government, shall be deposited in the county
166 collector's fund of a county or the treasurer ex officio collector's fund or may be sent by mail to
167 the collector of a county, or the treasurer ex officio collector in counties with a township form
168 of government, not later than October first in any year a homestead exemption credit is
169 appropriated as a result of this section and shall be distributed as moneys in such funds are
170 commonly distributed from other property tax revenues by the collector of the county or the
171 treasurer ex officio collector of the county in counties with a township form of government, so
172 as to exactly offset each homestead exemption credit being issued. In counties with a township
173 form of government, the county clerk shall provide the treasurer ex officio collector a summary
174 of the homestead exemption credit for each township for the purpose of distributing the total
175 homestead exemption credit to each township collector in a particular county.

176 13. If, in any given year after 2005, the general assembly shall make an appropriation for
177 the funding of the homestead exemption credit that is signed by the governor, then the director
178 shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a
179 single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a
180 percent, which, if applied to all homesteads of verified eligible owners who applied for the
181 homestead exemption credit in the immediately prior tax year, would cause all of the amount of
182 the appropriation, minus any withholding by the governor, to be distributed during that fiscal
183 year. If no appropriation is made by the general assembly during any tax year or no funds are
184 actually distributed pursuant to any appropriation therefor, then no homestead preservation credit
185 shall apply in such year.

186 14. After setting the homestead exemption limit for applications made after 2005, the
187 director shall apply the limit to the homestead of each verified eligible owner and calculate the
188 credit to be associated with each verified eligible owner's homestead, if any. The director shall
189 send a list of those eligible owners who are to receive the homestead exemption credit, including
190 the amount of each credit, the certified parcel number of the homestead, and the address of the
191 homestead property, to the county collectors or county clerks in counties with a township form

of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. 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. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

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

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

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

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

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

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