

FIRST REGULAR SESSION

# HOUSE BILL NO. 457

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SUTHERLAND (Sponsor) WILSON (119), WRIGHT-JONES, CORCORAN, MOORE, WHORTON, BROWN (30), WELLS, MUSCHANY, WOOD, BIVINS, McGHEE, ROBB, DUSENBERG, SATER, RUESTMAN, DOUGHERTY, PAGE AND WALLACE (Co-sponsors).

Read 1st time January 18, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1084L.01I

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### AN ACT

To repeal sections 135.010 and 135.030, RSMo, and to enact in lieu thereof two 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Section A. Sections 135.010 and 135.030, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 135.010 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**  
2 **"Senior Citizens' Homestead Tax Relief Act".**

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

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

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.

14 disability in such form and manner, and at such times, as the director of revenue may require, or  
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. A claimant shall not be allowed a property tax credit if the claimant filed a valid claim  
20 for a credit under section 137.106, RSMo, in the year following the year for which the property  
21 tax credit is claimed. The residency requirement shall be deemed to have been fulfilled for the  
22 purpose of determining the eligibility of a surviving spouse for a property tax credit if a person  
23 of the age of sixty-five years or older who would have otherwise met the requirements for a  
24 property tax credit dies before the last day of the calendar year. The residency requirement shall  
25 also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant  
26 who would have otherwise met the requirements for a property tax credit but who dies before  
27 the last day of the calendar year;

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

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

47 (4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to  
48 exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a  
49 home. It may consist of part of a multidwelling or multipurpose building and part of the land

50 upon which it is built. "Owned" includes a vendee in possession under a land contract and one  
51 or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant  
52 actually in possession if he was the immediate former owner of record, if a lineal descendant is  
53 presently the owner of record, and if the claimant actually pays all taxes upon the property. It  
54 may include a mobile home;

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

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

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

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

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

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

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

86 (7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by  
87 a claimant and spouse in the calendar 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 each calendar year after December 31, 1997, [the  
7 maximum upper limit shall] **but before calendar year 2008, be the sum of twenty-five thousand**  
8 **dollars. For the calendar year beginning on January 1, 2008, the maximum upper limit**  
9 **shall be the sum of twenty-five thousand five hundred dollars. For each calendar year**  
10 **beginning on or after January 1, 2009, the maximum upper limit shall be increased,**  
11 **rounded to the nearest fifty dollar increment, by the same percentage as the increase in the**  
12 **general price level as measured by the Consumer Price Index for all Urban Consumers for**  
13 **the United States, or its successor index, as defined and officially recorded by the United**  
14 **States Department of Labor, or its successor agency;**

15 (2) The term "minimum base" shall, [in the calendar year 1989, be the sum of five  
16 thousand dollars. For each succeeding calendar year through December 31, 1992, the minimum  
17 base shall be increased, in one hundred-dollar increments, by the same percentage as the increase  
18 in the general price level as measured by the Consumer Price Index for All Urban Consumers  
19 for the United States, or its successor index, as defined and officially recorded by the United  
20 States Department of Labor, or its successor agency, or five percent, whichever is greater. The  
21 increase in the index shall be that as first published by the Department of Labor for the calendar  
22 year immediately preceding the year in which the minimum base is calculated. For calendar  
23 years after December 31, 1992, and prior to calendar year 1998, the minimum base shall be the  
24 sum used on December 31, 1992.] for each calendar year after December 31, 1997, [the  
25 minimum base shall] **but before calendar year 2008, be the sum of thirteen thousand dollars.**  
26 **For the calendar year beginning January 1, 2008, the minimum base shall be the sum of**  
27 **thirteen thousand three hundred dollars. For each calendar year beginning on or after**  
28 **January 1, 2009, the minimum base shall be increased, rounded to the nearest fifty dollar**  
29 **increment, by the same percentage as the increase in the general price level as measured**  
30 **by the Consumer Price Index for all Urban Consumers for the United States, or its**  
31 **successor index, as defined and officially recorded by the United States Department of**  
32 **Labor, or its successor agency.**

33 2. [When calculating the minimum base for purposes of this section, whenever the  
34 increase in the Consumer Price Index used in the calculation would result in a figure which is

35 greater than one one-hundred-dollar increment but less than another one-hundred-dollar  
36 increment, the director of revenue shall always round that figure off to the next higher  
37 one-hundred-dollar increment when determining the table of credits under this section.

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

42

43 If the income on the return is:

The percent is:

44

45 Not over the minimum base

0 percent with credit not

46

to exceed actual property

47

tax or rent equivalent

48

paid up to \$750

49 Over the minimum base but

1/16 percent accumulative

50 not over the maximum upper

per \$300 from 0 percent

51 limit

to 4 percent.

52

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

59 [4.] 3. Notwithstanding [the provision of] subsection 4 of section 32.057, RSMo, the  
60 department of revenue or any duly authorized employee or agent shall determine whether any  
61 taxpayer filing a report or return with the department of revenue who has not applied for the  
62 credit allowed pursuant to section 135.020 may qualify for the credit, and shall notify any  
63 qualified claimant of [his or her] **the claimant's** potential eligibility, where the department  
64 determines such potential eligibility exists.

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