

SECOND REGULAR SESSION

HOUSE BILL NO. 2165

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRILL (Sponsor), TALBOY,
SCHIEFFER AND MEINERS (Co-sponsors).

Read 1st time February 14, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4397L.01I

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Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows: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

(a) 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 have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the

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 combined income of the couple in the year prior to completing an application pursuant to this
16 section did not exceed the maximum upper limit; or

17 (b) In the case of joint ownership by unmarried persons or ownership by tenancy in
18 common by two or more unmarried persons, such owners shall be considered an eligible owner
19 if each person with an ownership interest individually satisfies the eligibility requirements for
20 an individual eligible owner under this section and the combined income of all individuals with
21 an interest in the property is equal to or less than the maximum upper limit in the year prior to
22 completing an application under this section. If any individual with an ownership interest in the
23 property fails to satisfy the eligibility requirements of an individual eligible owner or if the
24 combined income of all individuals with interest in the property exceeds the maximum upper
25 limit, then all individuals with an ownership interest in such property shall be deemed ineligible
26 owners regardless of such other individual's ability to individually meet the eligibility
27 requirements; or

28 (c) In the case of property held in trust, the eligible owner and recipient of the tax credit
29 shall be the trust itself provided the previous owner of the homestead or the previous owner's
30 spouse: is the settlor of the trust with respect to the homestead; currently resides in such
31 homestead; and but for the transfer of such property would have satisfied the age, ownership, and
32 maximum upper limit requirements for income as defined in subdivisions (7) and (8) of this
33 subsection[;] .

34

35 No individual shall be an eligible owner if the individual has not paid [their] **such individual's**
36 property tax liability, if any, in full by the payment due date in any of the three prior tax years,
37 except that a late payment of a property tax liability in any prior year shall not disqualify a
38 potential eligible owner if such owner paid in full the tax liability and any and all penalties,
39 additions and interest that arose as a result of such late payment; no individual shall be an
40 eligible owner if such person filed a valid claim for the senior citizens property tax relief credit
41 pursuant to sections 135.010 to 135.035, RSMo;

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

47 (6) "Homestead exemption limit", a percentage increase, rounded to the nearest
48 hundredth of a percent, which shall be equal to the percentage increase to tax liability, not
49 including improvements, of a homestead from one tax year to the next that exceeds a certain
50 percentage set pursuant to subsection [10] 7 of this section. [For applications filed in 2005 or

51 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to
52 2005. For applications filed between April 1, 2005, and September 30, 2006, an eligible owner,
53 who otherwise satisfied the requirements of this section, shall not apply for the homestead
54 exemption credit more than once during such period.] For applications filed [after 2006] in
55 **2007**, the homestead exemption limit shall be based on the increase to tax liability from two
56 years prior to application to the year immediately prior to application. **For applications filed in**
57 **or after 2008, the homestead exemption limit shall be based on the increase to tax liability**
58 **from the base year to the year prior to the application year. For purposes of this**
59 **subdivision, "base year" means the year prior to the first year in which the eligible owner's**
60 **application was approved, or 2006, whichever is later;**

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

64 (8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy
65 thousand dollars; in each successive calendar year this amount shall be raised by the incremental
66 increase in the general price level, as defined pursuant to article X, section 17 of the Missouri
67 Constitution.

68 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax
69 year, the property tax liability on any parcel of subclass (1) real property increased by more than
70 the homestead exemption limit, without regard for any prior credit received due to the provisions
71 of this section, then any eligible owner of the property shall receive a homestead exemption
72 credit to be applied in the current tax year property tax liability to offset the prior year increase
73 to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is
74 limited by the provisions of this section. The amount of the credit shall be listed separately on
75 each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's
76 bill. The homestead exemption credit shall not affect the process of setting the tax rate as
77 required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in
78 any prior, current, or subsequent tax year.

79 4. [If application is made in 2005, any potential eligible owner may apply for the
80 homestead exemption credit by completing an application through their local assessor's office.
81 Applications may be completed between April first and September thirtieth of any tax year in
82 order for the taxpayer to be eligible for the homestead exemption credit in the tax year next
83 following the calendar year in which the homestead exemption credit application was completed.
84 The application shall be on forms provided to the assessor's office by the department. Forms also
85 shall be made available on the department's Internet site and at all permanent branch offices and

86 all full-time, temporary, or fee offices maintained by the department of revenue. The applicant
87 shall attest under penalty of perjury:

88 (1) To the applicant's age;

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

90 (3) To the address of the homestead property; and

91 (4) That any improvements made to the homestead, not made to accommodate a disabled
92 person, did not total more than five percent of the prior year appraised value. The applicant shall
93 also include with the application copies of receipts indicating payment of property tax by the
94 applicant for the homestead property for the two prior tax years.

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

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

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

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

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

104 6. If application is made after 2005,] Any potential eligible owner may apply for the
105 homestead exemption credit by completing an application. Applications may be completed
106 between April first and October fifteenth of any tax year in order for the taxpayer to be eligible
107 for the homestead exemption credit in the tax year next following the calendar year in which the
108 homestead exemption credit application was completed. The application shall be on forms
109 provided by the department. Forms also shall be made available on the department's Internet site
110 and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the
111 department of revenue. The applicant shall attest under penalty of perjury:

112 (1) To the applicant's age;

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

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

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

117 (5)] .

118

119 The applicant shall also include with the application copies of receipts indicating payment of
120 property tax by the applicant for the homestead property for the three prior tax years.

121 [7.] 5. Each applicant shall send the application to the department by [September
122 thirtieth] **October fifteenth** of each year for the taxpayer to be eligible for the homestead
123 exemption credit in the tax year next following the calendar year in which the application was
124 completed.

125 [8. If application is made in 2005, upon receipt of the applications, the department shall
126 calculate the tax liability, adjusted to exclude new construction or improvements verify
127 compliance with the maximum income limit, verify the age of the applicants, and make
128 adjustments to these numbers as necessary on the applications. The department also shall
129 disallow any application where the applicant has also filed a valid application for the senior
130 citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax
131 liability, age, and income are verified, the director shall determine eligibility for the credit, and
132 provide a list of all verified eligible owners to the county collectors or county clerks in counties
133 with a township form of government by December fifteenth of each year. By January fifteenth,
134 the county collectors or county clerks in counties with a township form of government shall
135 provide a list to the department of any verified eligible owners who failed to pay the property tax
136 due for the tax year that ended immediately prior. Such eligible owners shall be disqualified
137 from receiving the credit in the current tax year.

138 9. If application is made after 2005,] 6. Upon receipt of the applications, the department
139 shall calculate the tax liability, verify compliance with the maximum income limit, verify the age
140 of the applicants, and make adjustments to these numbers as necessary on the applications. The
141 department also shall disallow any application where the applicant also has filed a valid
142 application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo.
143 Once adjusted tax liability, age, and income are verified, the director shall determine eligibility
144 for the credit and provide a list of all verified eligible owners to the county assessors or county
145 clerks in counties with a township form of government by December fifteenth of each year. By
146 January fifteenth, the county assessors shall provide a list to the department of any verified
147 eligible owners who made improvements not for accommodation of a disability to the homestead
148 and the dollar amount of the assessed value of such improvements. If the dollar amount of the
149 assessed value of such improvements totaled more than five percent of the prior year appraised
150 value, such eligible owners shall be disqualified from receiving the credit in the current tax year.

151 [10.] 7. The director shall calculate the level of appropriation necessary [to] **and** set the
152 homestead exemption limit at five percent when based on a year of general reassessment or at
153 two and one-half percent when based on a year without general reassessment for the homesteads
154 of all verified eligible owners, and provide such calculation to the speaker of the house of
155 representatives, the president pro tempore of the senate, and the director of the office of budget
156 and planning in the office of administration by January thirty-first of each year.

157 [11. For applications made in 2005, the general assembly shall make an appropriation
158 for the funding of the homestead exemption credit that is signed by the governor, then the
159 director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall
160 be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a
161 percent, which, if applied to all homesteads of verified eligible owners who applied for the
162 homestead exemption credit in the immediately prior tax year, would cause all but one-quarter
163 of one percent of the amount of the appropriation, minus any withholding by the governor, to be
164 distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed
165 to the county assessment funds of each county on a proportional basis, based on the number of
166 eligible owners in each county; such one-quarter percent distribution shall be delineated in any
167 such appropriation as a separate line item in the total appropriation.]

168 **8.** If no appropriation is made by the general assembly during any tax year or no funds
169 are actually distributed pursuant to any appropriation therefor, then no homestead preservation
170 credit shall apply in such year.

171 [12. After setting the homestead exemption limit for applications made in 2005, the
172 director shall apply the limit to the homestead of each verified eligible owner and calculate the
173 credit to be associated with each verified eligible owner's homestead, if any. The director shall
174 send a list of those eligible owners who are to receive the homestead exemption credit, including
175 the amount of each credit, the certified parcel number of the homestead, and the address of the
176 homestead property, to the county collectors or county clerks in counties with a township form
177 of government by August thirty-first. Pursuant to such calculation, the director shall instruct the
178 state treasurer as to how to distribute the appropriation and assessment fund allocation to the
179 county collector's funds of each county or the treasurer ex officio collector's fund in counties with
180 a township form of government where recipients of the homestead exemption credit are located,
181 so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one
182 percent distribution for the county assessment funds. As a result of the appropriation, in no case
183 shall a political subdivision receive more money than it would have received absent the
184 provisions of this section plus the one-quarter of one percent distribution for the county
185 assessment funds. Funds, at the direction of the county collector or the treasurer ex officio
186 collector in counties with a township form of government, shall be deposited in the county
187 collector's fund of a county or the treasurer ex officio collector's fund or may be sent by mail to
188 the collector of a county, or the treasurer ex officio collector in counties with a township form
189 of government, not later than October first in any year a homestead exemption credit is
190 appropriated as a result of this section and shall be distributed as moneys in such funds are
191 commonly distributed from other property tax revenues by the collector of the county or the
192 treasurer ex officio collector of the county in counties with a township form of government, so

193 as to exactly offset each homestead exemption credit being issued. In counties with a township
194 form of government, the county clerk shall provide the treasurer ex officio collector a summary
195 of the homestead exemption credit for each township for the purpose of distributing the total
196 homestead exemption credit to each township collector in a particular county.

197 [13.] **9.** If, in any given year after 2005, the general assembly shall make an appropriation
198 for the funding of the homestead exemption credit that is signed by the governor, then the
199 director shall[, by July thirty-first of such year, set the homestead exemption limit. The limit
200 shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth
201 of a percent, which, if applied to all homesteads of verified eligible owners who applied for the
202 homestead exemption credit in the immediately prior tax year, would cause all of the amount of
203 the appropriation, minus any withholding by the governor, to be distributed during that fiscal
204 year] **determine the apportionment percentage by equally apportioning the appropriation**
205 **among all eligible applicants on a percentage basis.** If no appropriation is made by the general
206 assembly during any tax year or no funds are actually distributed pursuant to any appropriation
207 therefor, then no homestead preservation credit shall apply in such year.

208 [14.] **10.** After [setting the homestead exemption limit for applications made after 2005,
209 the director shall apply the limit to the homestead of each verified eligible owner and]
210 **determining the apportionment percentage, the director shall** calculate the credit to be
211 associated with each verified eligible owner's homestead, if any. The director shall send a list
212 of those eligible owners who are to receive the homestead exemption credit, including the
213 amount of each credit, the certified parcel number of the homestead, and the address of the
214 homestead property, to the county collectors or county clerks in counties with a township form
215 of government by August thirty-first. Pursuant to such calculation, the director shall instruct the
216 state treasurer as to how to distribute the appropriation to the county collector's fund of each
217 county where recipients of the homestead exemption credit are located, so as to exactly offset
218 each homestead exemption credit being issued. As a result of the appropriation, in no case shall
219 a political subdivision receive more money than it would have received absent the provisions of
220 this section. Funds, at the direction of the collector of the county or treasurer ex officio collector
221 in counties with a township form of government, shall be deposited in the county collector's fund
222 of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector
223 in counties with a township form of government, not later than October first in any year a
224 homestead exemption credit is appropriated as a result of this section and shall be distributed as
225 moneys in such funds are commonly distributed from other property tax revenues by the collector
226 of the county or the treasurer ex officio collector of the county in counties with a township form
227 of government, so as to exactly offset each homestead exemption credit being issued.

228 [15.] 11. The department shall promulgate rules for implementation of this section. Any
229 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under
230 the authority delegated in this section shall become effective only if it complies with and is
231 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
232 This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
233 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
234 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
235 authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any
236 rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the
237 performance of the required statutory duties of any county elected official, more particularly
238 including the county collector when performing such duties as deemed necessary for the
239 distribution of any homestead appropriation and the distribution of all other real and personal
240 property taxes.

241 [16.] 12. In the event that an eligible owner dies or transfers ownership of the property
242 after the homestead exemption limit has been set in any given year, but prior to January first of
243 the year in which the credit would otherwise be applied, the credit shall be void and any
244 corresponding moneys[, pursuant to subsection 12 of this section,] shall lapse to the state to be
245 credited to the general revenue fund. In the event the collector of the county or the treasurer ex
246 officio collector of the county in counties with a township form of government determines prior
247 to issuing the credit that the individual is not an eligible owner because the individual did not pay
248 the prior three years' property tax liability in full, the credit shall be void and any corresponding
249 moneys[, under subsection 11 of this section,] shall lapse to the state to be credited to the general
250 revenue fund.

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

253 18.] 13. In accordance with the provisions of sections 23.250 to 23.298, RSMo, and
254 unless otherwise authorized pursuant to section 23.253, RSMo:

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

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

✓