

SECOND REGULAR SESSION

# HOUSE BILL NO. 2392

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES STREAM (Sponsor), RUESTMAN, FLANIGAN, GRISAMORE, THOMSON, LAIR, FISHER (125), RUCKER, KIRKTON, ATKINS, BIVINS, KRATKY, FAITH, NOLTE, NIEVES, NANCE, DIECKHAUS, FISCHER (107), HUMMEL, GRILL, KRAUS, ERVIN, CORCORAN, SCHAD, NASHEED, DUSENBERG, PRATT AND AYRES (Co-sponsors).

5395L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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Section A. Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows: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] **the 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 of this section. For applications filed in 2005 or 2006,

51 the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005.  
52 For applications filed between April 1, 2005, and September 30, 2006, an eligible owner, who  
53 otherwise satisfied the requirements of this section, shall not apply for the homestead exemption  
54 credit more than once during such period. For applications filed after 2006, the homestead  
55 exemption limit shall be based on the increase to tax liability from two years prior to application  
56 to the year immediately prior to application. For applications filed between December 31, 2008,  
57 and December 31, 2011, the homestead exemption limit shall be based on the increase in tax  
58 liability from the base year to the year prior to the application year. For applications filed on or  
59 after January 1, 2012, the homestead exemption limit shall be based on the increase to tax  
60 liability from two years prior to application to the year immediately prior to application. For  
61 purposes of this subdivision, the term "base year" means the year prior to the first year in which  
62 the eligible owner's application was approved, or 2006, whichever is later;

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

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

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

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

87 shall be made available on the department's Internet site and at all permanent branch offices and  
88 all full-time, temporary, or fee offices maintained by the department of revenue. The applicant  
89 shall attest under penalty of perjury:

90 (1) To the applicant's age;

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

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

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

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

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

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

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

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

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

114 (1) To the applicant's age;

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

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

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

119 [(5)]  
120

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

123           7. Each applicant shall send the application to the department by October fifteenth of  
124 each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next  
125 following the calendar year in which the application was completed.

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

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

152           10. The director shall calculate the level of appropriation necessary to set the homestead  
153 exemption limit at five percent when based on a year of general reassessment or at two and  
154 one-half percent when based on a year without general reassessment for the homesteads of all  
155 verified eligible owners, and provide such calculation to the speaker of the house of  
156 representatives, the president pro tempore of the senate, and the director of the office of budget  
157 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 of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation and assessment fund allocation to the county collector's funds of each county or the treasurer ex officio collector's fund in counties with a township form of government where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. 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 plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector or the 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 the treasurer ex officio collector's fund or may be sent by mail to the collector of a county, or the 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. 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. If, in any given year after 2005, the general assembly shall make an appropriation for  
198 the funding of the homestead exemption credit that is signed by the governor, then the director  
199 shall determine the apportionment percentage by equally apportioning the appropriation among  
200 all eligible applicants on a percentage basis. If no appropriation is made by the general assembly  
201 during any tax year or no funds are actually distributed pursuant to any appropriation therefor,  
202 then no homestead preservation credit shall apply in such year.

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

221 15. The department shall promulgate rules for implementation of this section. Any rule  
222 or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the  
223 authority delegated in this section shall become effective only if it complies with and is subject  
224 to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
225 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
226 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
227 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
228 authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any  
229 rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the

230 performance of the required statutory duties of any county elected official, more particularly  
231 including the county collector when performing such duties as deemed necessary for the  
232 distribution of any homestead appropriation and the distribution of all other real and personal  
233 property taxes.

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

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

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

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

250       (2) This section shall terminate on September first of the year following the year in  
251 which any new program authorized under this section is sunset, and the revisor of statutes shall  
252 designate such sections and this section in a revision bill for repeal.] **Under section 23.253 of**  
253 **the Missouri sunset act:**

254       (1) **The provisions of the new program authorized under this section shall**  
255 **automatically sunset on December 31, 2016, unless reauthorized by an act of the general**  
256 **assembly; and**

257       (2) **If such program is reauthorized, the program authorized under this section**  
258 **shall automatically sunset on December 31, 2022; and**

259       (3) **This section shall terminate on September first of the calendar year immediately**  
260 **following the calendar year in which the program authorized under this section is sunset.**

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