

FIRST REGULAR SESSION

# HOUSE BILL NO. 941

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BURTON.

1762H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To amend chapter 137, RSMo, by adding thereto one new section relating to the Missouri homestead preservation act, with a delayed effective date.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 137, RSMo, is amended by adding thereto one new section, to be known as section 137.107, to read as follows:

**137.107. 1. This section shall be known and may be cited as the "Missouri Homestead Preservation Act".**

**2. As used in this section, the following terms mean:**

**(1) "Department", the department of revenue;**

**(2) "Director", the director of revenue;**

**(3) "Disabled", the same meaning given to such term under section 135.010;**

**(4) "Eligible owner":**

**(a) Any individual owner of property who is sixty-five years of age or older as of January first of the tax year in which the individual is claiming the credit authorized under this section or who is disabled, and who had an income of less than or equal to the maximum upper limit in the year prior to completing an application under this section;**

**(b) In the case of a married couple owning property either jointly or as tenants by the entirety, or in the case of a married couple where only one spouse owns the property, such couple shall be considered an "eligible owner" if both spouses have reached sixty-five years of age, if one spouse is disabled, or if one spouse is sixty-five years of age or older and the other spouse is sixty years of age or older, and the combined income of the couple in**

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 the year prior to completing an application under this section did not exceed the maximum  
18 upper limit;

19 (c) In the case of joint ownership by unmarried persons or ownership by tenancy  
20 in common by two or more unmarried persons, such owners shall be considered an  
21 "eligible owner" if each person with an ownership interest individually satisfies the  
22 eligibility requirements for an individual eligible owner under this subdivision and the  
23 combined income of all individuals with an interest in the property is less than or equal to  
24 the maximum upper limit in the year immediately prior to completing an application under  
25 this section. If any individual with an ownership interest in the property fails to satisfy the  
26 eligibility requirements of an individual eligible owner or if the combined income of all  
27 individuals with interest in the property exceeds the maximum upper limit, then no  
28 individuals with an ownership interest in such property shall be deemed "eligible owners",  
29 regardless of whether any such individuals could otherwise meet the eligibility  
30 requirements; or

31 (d) In the case of property held in trust, the "eligible owner" and recipient of the  
32 tax credit shall be the trust itself; provided that, the previous owner of the homestead or  
33 the previous owner's spouse:

34 a. Is the settlor of the trust with respect to the homestead;

35 b. Currently resides in such homestead; and

36 c. Would have satisfied the age, ownership, and maximum upper limit  
37 requirements for income as defined in this subdivision, but for the transfer of such  
38 property;

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40 No individual shall be an "eligible owner" if the individual has not paid the individual's  
41 property tax liability, if any, in full by the payment due date in any of the three most recent  
42 prior tax years; except that, a late payment of a property tax liability in any prior tax year  
43 shall not disqualify a potential eligible owner if such individual paid in full the tax liability  
44 and any and all penalties, additions, and interest that arose as a result of such late  
45 payment. No individual shall be an "eligible owner" if such person filed a valid claim for  
46 the property tax relief credit under sections 135.010 to 135.035;

47 (5) "Homestead", the same meaning given to such term under section 135.010,  
48 except as otherwise by the provisions of this section. No property shall be considered a  
49 "homestead" if such property has been improved since its most recent annual assessment  
50 by more than five percent of its previously assessed value, except where an eligible owner  
51 of the property has made such improvements to accommodate a disabled person;

52       (6) "Homestead exemption limit", a percentage increase, rounded to the nearest  
53 hundredth of a percent, that is equal to the percentage increase in tax liability, not  
54 including improvements, of a homestead from one tax year to the next, that exceeds a  
55 certain percentage set under subsection 7 of this section. The homestead exemption limit  
56 shall be based on the increase in tax liability from two years prior to the application to the  
57 year immediately prior to the application;

58       (7) "Income", federal adjusted gross income; except that, in the case of ownership  
59 of the homestead by a trust, the income of the settlor applicant shall be imputed to the  
60 income of the trust for purposes of determining eligibility with respect to the maximum  
61 upper limit;

62       (8) "Maximum upper limit", the income sum of seventy thousand dollars for the  
63 2005 calendar year, increased each successive calendar year by the incremental increase  
64 in the general price level, as defined under Article X, Section 17 of the Constitution of  
65 Missouri.

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

78       4. Any potential eligible owner may apply for the homestead exemption credit by  
79 completing an application. Applications shall be completed no earlier than April first and  
80 no later than October fifteenth of any tax year in order for the taxpayer to be eligible for  
81 the homestead exemption credit in the tax year next following the calendar year in which  
82 the homestead exemption credit application is completed. The application shall be on  
83 forms provided by the department. Forms shall be made available on the department's  
84 website and at all permanent branch offices and all full-time, temporary, and fee offices  
85 maintained by the department of revenue. On such applications, the applicant shall attest  
86 under penalty of perjury:

87       (1) To the applicant's age;

88           (2) That the applicant's prior year income was less than the maximum upper limit;  
89           (3) To the address of the homestead property; and  
90           (4) That any improvements made to the homestead, not made to accommodate a  
91 disabled person, did not total more than five percent of the assessed value of the homestead  
92 for the most recent prior tax year.

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94   The applicant shall also include with the application copies of receipts indicating payment  
95 of property tax by the applicant for the homestead property for the three most recent prior  
96 tax years.

97           5. Each applicant shall submit the application to the department no later than  
98 October fifteenth of each year for the taxpayer to be eligible for the homestead exemption  
99 credit in the tax year next following the calendar year in which the application was  
100 submitted.

101           6. Upon receipt of the applications, the department shall calculate the tax liability,  
102 verify compliance with the maximum income limit, verify the ages of the applicants, and  
103 make adjustments to these numbers as necessary on the applications. The department  
104 shall disallow any application if the applicant also has filed a valid application for the  
105 property tax credit authorized under sections 135.010 to 135.035. Once adjusted tax  
106 liability, age, and income are verified, the director shall determine eligibility for the credit  
107 and provide a list of all verified eligible owners to the county assessors, or county clerks in  
108 counties with a township form of government, no later than December fifteenth of each  
109 year. No later than the following January fifteenth, the county assessors shall provide a  
110 list to the department of any verified eligible owners who made improvements not for  
111 accommodation of a disability to the homestead and the dollar amount of the assessed  
112 value of such improvements. If the dollar amount of the assessed value of such  
113 improvements totals more than five percent of the assessed value from the most recent  
114 prior tax year, such eligible owners shall be disqualified from receiving the credit in the  
115 current tax year.

116           7. The director shall calculate the level of appropriation necessary to set the  
117 homestead exemption limit for the homesteads of all verified eligible owners at five percent  
118 when based on a year of general reassessment or at two and one-half percent when based  
119 on a year without general reassessment. The director shall provide such calculation to the  
120 speaker of the house of representatives, the president pro tempore of the senate, and the  
121 director of the office of budget and planning in the office of administration no later than  
122 January thirty-first of each year.

123           **8. If, in any given year, the general assembly makes an appropriation for the**  
124 **funding of the homestead exemption credit that is signed by the governor, then the director**  
125 **shall determine the apportionment percentage by equally apportioning the appropriation**  
126 **among all eligible applicants on a percentage basis. If no appropriation is made by the**  
127 **general assembly during any tax year or no funds are actually distributed pursuant to any**  
128 **appropriation therefor, then no homestead preservation credit shall apply in such year.**

129           **9. After determining the apportionment percentage, the director shall calculate the**  
130 **credit to be associated with each verified eligible owner's homestead, if any. The director**  
131 **shall send a list of those eligible owners who are to receive the homestead exemption credit,**  
132 **including the amount of each credit, the certified parcel number of the homestead, and the**  
133 **address of the homestead property, to the county collectors, or county clerks in counties**  
134 **with a township form of government, no later than August thirty-first. Pursuant to such**  
135 **calculation, the director shall instruct the state treasurer to distribute the appropriation**  
136 **to the county collector's fund of each county where recipients of the homestead exemption**  
137 **credit are located, in such amounts as would exactly offset each homestead exemption**  
138 **credit being issued. In no case shall a political subdivision receive, as a result of**  
139 **appropriations, more moneys than it would have received absent the provisions of this**  
140 **section. At the direction of the county collector, or treasurer ex officio collector in counties**  
141 **with a township form of government, funds may be deposited in the county collector's fund**  
142 **or may be sent by mail to the collector of a county, or treasurer ex officio collector in**  
143 **counties with a township form of government, no later than October first in any year a**  
144 **homestead exemption credit is appropriated as a result of this section, and shall be**  
145 **distributed as moneys in such funds are commonly distributed from other property tax**  
146 **revenues by the county collector, or treasurer ex officio collector of the county in counties**  
147 **with a township form of government, in such amounts as would exactly offset each**  
148 **homestead exemption credit being issued.**

149           **10. In the event that an eligible owner dies or transfers ownership of the property**  
150 **after the homestead exemption limit has been set in any given year, but prior to January**  
151 **first of the year in which the credit would otherwise be applied, the credit shall be void and**  
152 **any corresponding moneys shall lapse to the state to be credited to the general revenue**  
153 **fund. In the event that the county collector, or the treasurer ex officio collector of the**  
154 **county in counties with a township form of government, determines prior to issuing the**  
155 **credit that the individual is not an eligible owner because the individual did not pay his or**  
156 **her property tax liability in full for the most recent prior three years, the credit shall be**  
157 **void and any corresponding moneys shall lapse to the state to be credited to the general**  
158 **revenue fund.**

159           **11. The department may promulgate rules and regulations for the implementation**  
160 **and administration of this section. Any rule or portion of a rule, as that term is defined in**  
161 **section 536.010, that is created under the authority delegated in this section shall become**  
162 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
163 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
164 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
165 **the effective date, or to disapprove and annul a rule are subsequently held**  
166 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
167 **after the effective date of this section shall be invalid and void. No rule promulgated by**  
168 **the department shall in any way adversely impact, interrupt, or interfere with the**  
169 **performance of the required statutory duties of any county elected official including, but**  
170 **not limited to, the county collector, when performing such duties as deemed necessary for**  
171 **the distribution of any homestead appropriation and the distribution of all other real and**  
172 **personal property taxes.**

173           **12. Under section 23.253 of the Missouri sunset act:**

174           **(1) The provisions of this section shall automatically sunset six years after the**  
175 **effective date of this section unless reauthorized by an act of the general assembly;**

176           **(2) If the provisions of this section are reauthorized, such provisions shall**  
177 **automatically sunset twelve years after the effective date of their reauthorization; and**

178           **(3) This section shall terminate on January first of the calendar year immediately**  
179 **following the calendar year in which the provisions of this section are sunset.**

          Section B. The enactment of section 137.107 of section A of this act shall become  
2 effective on January 1, 2022.

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