

SECOND REGULAR SESSION

SENATE BILL NO. 630

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3309S.02I

AN ACT

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

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Section A. Section 137.106, RSMo, is repealed and one new section enacted

2 in lieu thereof, to be known as section 137.106, to read as follows:

137.106. 1. This section may be known and may be cited as "The Missouri
2 Homestead Preservation Act".

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

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

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

6 (3) "Disabled", as such term is defined in section 135.010, RSMo;

7 (4) "Eligible owner", any individual owner of property who is sixty-five
8 years old or older as of January first of the tax year in which the individual is
9 claiming the credit or who is disabled, and who had an income of equal to or less
10 than the maximum upper limit in the year prior to completing an application
11 pursuant to [subsection 4 of] this section; **or**

12 **(a) In the case of a married couple owning property either jointly or as**
13 **tenants by the entirety, or where only one spouse owns the property, such couple**
14 **shall be considered an eligible taxpayer if both spouses have reached the age of**
15 **sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years**
16 **old and the other spouse is at least sixty years old, and the combined income of**
17 **the couple in the year prior to completing an application pursuant to [subsection**
18 **4 of] this section did not exceed the maximum upper limit; or**

19 **(b) In the case of joint ownership by unmarried persons or**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

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

54 (6) "Homestead exemption limit", a percentage increase, rounded to the
55 nearest hundredth of a percent, which shall be equal to the percentage increase

56 to tax liability, not including improvements, of a homestead from one tax year to
57 the next that exceeds a certain percentage set pursuant to subsection 10 of this
58 section. For applications filed in 2005 or 2006, the homestead exemption limit
59 shall be based on the increase to tax liability from 2004 to 2005. For applications
60 filed between April 1, 2005, and September 30, 2006, an eligible owner, who
61 otherwise satisfied the requirements of this section, shall not apply for the
62 homestead exemption credit more than once during such period. For applications
63 filed after 2006, the homestead exemption limit shall be based on the increase to
64 tax liability from two years prior to application to the year immediately prior to
65 application;

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

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

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

87 4. If application is made in 2005, any potential eligible owner may apply
88 for the homestead exemption credit by completing an application through their
89 local assessor's office. Applications may be completed between April first and
90 September thirtieth of any tax year in order for the taxpayer to be eligible for the
91 homestead exemption credit in the tax year next following the calendar year in

92 which the homestead exemption credit application was completed. The
93 application shall be on forms provided to the assessor's office by the
94 department. Forms also shall be made available on the department's Internet
95 site and at all permanent branch offices and all full-time, temporary, or fee offices
96 maintained by the department of revenue. The applicant shall attest under
97 penalty of perjury:

98 (1) To the applicant's age;

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

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

102 (4) That any improvements made to the homestead, not made to
103 accommodate a disabled person, did not total more than five percent of the prior
104 year appraised value.

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

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

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

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

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

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

119 6. If application is made after 2005, any potential eligible owner may
120 apply for the homestead exemption credit by completing an
121 application. Applications may be completed between April first and September
122 thirtieth of any tax year in order for the taxpayer to be eligible for the homestead
123 exemption credit in the tax year next following the calendar year in which the
124 homestead exemption credit application was completed. The application shall be
125 on forms provided by the department. Forms also shall be made available on the
126 department's Internet site and at all permanent branch offices and all full-time,
127 temporary, or fee offices maintained by the department of revenue. The applicant

128 shall attest under penalty of perjury:

129 (1) To the applicant's age;

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

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

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

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

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

143 8. If application is made in 2005, upon receipt of the applications, the
144 department shall calculate the tax liability, adjusted to exclude new construction
145 or improvements verify compliance with the maximum income limit, verify the
146 age of the applicants, and make adjustments to these numbers as necessary on
147 the applications. The department also shall disallow any application where the
148 applicant has also filed a valid application for the senior citizens property tax
149 credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax
150 liability, age, and income are verified, the director shall determine eligibility for
151 the credit, and provide a list of all verified eligible owners to the county collectors
152 or county clerks in counties with a township form of government by December
153 fifteenth of each year. By January fifteenth, the county collectors or county
154 clerks in counties with a township form of government shall provide a list to the
155 department of any verified eligible owners who failed to pay the property tax due
156 for the tax year that ended immediately prior. Such eligible owners shall be
157 disqualified from receiving the credit in the current tax year.

158 9. If application is made after 2005, upon receipt of the applications, the
159 department shall calculate the tax liability, verify compliance with the maximum
160 income limit, verify the age of the applicants, and make adjustments to these
161 numbers as necessary on the applications. The department also shall disallow
162 any application where the applicant also has filed a valid application for the
163 senior citizens property tax credit under sections 135.010 to 135.035,

164 RSMo. Once adjusted tax liability, age, and income are verified, the director shall
165 determine eligibility for the credit and provide a list of all verified eligible owners
166 to the county assessors or county clerks in counties with a township form of
167 government by December fifteenth of each year. By January fifteenth, the county
168 assessors shall provide a list to the department of any verified eligible owners
169 who made improvements not for accommodation of a disability to the homestead
170 and the dollar amount of the assessed value of such improvements. If the dollar
171 amount of the assessed value of such improvements totaled more than five
172 percent of the prior year appraised value, such eligible owners shall be
173 disqualified from receiving the credit in the current tax year.

174 10. The director shall calculate the level of appropriation necessary to set
175 the homestead exemption limit at five percent when based on a year of general
176 reassessment or at two and one-half percent when based on a year without
177 general reassessment for the homesteads of all verified eligible owners, and
178 provide such calculation to the speaker of the house of representatives, the
179 president pro tempore of the senate, and the director of the office of budget and
180 planning in the office of administration by January thirty-first of each year.

181 11. For applications made in 2005, the general assembly shall make an
182 appropriation for the funding of the homestead exemption credit that is signed
183 by the governor, then the director shall, by July thirty-first of such year, set the
184 homestead exemption limit. The limit shall be a single, statewide percentage
185 increase to tax liability, rounded to the nearest hundredth of a percent, which, if
186 applied to all homesteads of verified eligible owners who applied for the
187 homestead exemption credit in the immediately prior tax year, would cause all
188 but one-quarter of one percent of the amount of the appropriation, minus any
189 withholding by the governor, to be distributed during that fiscal year. The
190 remaining one-quarter of one percent shall be distributed to the county
191 assessment funds of each county on a proportional basis, based on the number of
192 eligible owners in each county; such one-quarter percent distribution shall be
193 delineated in any such appropriation as a separate line item in the total
194 appropriation. If no appropriation is made by the general assembly during any
195 tax year or no funds are actually distributed pursuant to any appropriation
196 therefor, then no homestead preservation credit shall apply in such year.

197 12. After setting the homestead exemption limit for applications made in
198 2005, the director shall apply the limit to the homestead of each verified eligible
199 owner and calculate the credit to be associated with each verified eligible owner's

200 homestead, if any. The director shall send a list of those eligible owners who are
201 to receive the homestead exemption credit, including the amount of each credit,
202 the certified parcel number of the homestead, and the address of the homestead
203 property, to the county collectors or county clerks in counties with a township
204 form of government by August thirty-first. Pursuant to such calculation, the
205 director shall instruct the state treasurer as to how to distribute the
206 appropriation and assessment fund allocation to the county collector's funds of
207 each county or the treasurer ex officio collector's fund in counties with a township
208 form of government where recipients of the homestead exemption credit are
209 located, so as to exactly offset each homestead exemption credit being issued, plus
210 the one-quarter of one percent distribution for the county assessment funds. As
211 a result of the appropriation, in no case shall a political subdivision receive more
212 money than it would have received absent the provisions of this section plus the
213 one-quarter of one percent distribution for the county assessment funds. Funds,
214 at the direction of the county collector or the treasurer ex officio collector in
215 counties with a township form of government, shall be deposited in the county
216 collector's fund of a county or the treasurer ex officio collector's fund or may be
217 sent by mail to the collector of a county, or the treasurer ex officio collector in
218 counties with a township form of government, not later than October first in any
219 year a homestead exemption credit is appropriated as a result of this section and
220 shall be distributed as moneys in such funds are commonly distributed from other
221 property tax revenues by the collector of the county or the treasurer ex officio
222 collector of the county in counties with a township form of government, so as to
223 exactly offset each homestead exemption credit being issued. In counties with a
224 township form of government, the county clerk shall provide the treasurer ex
225 officio collector a summary of the homestead exemption credit for each township
226 for the purpose of distributing the total homestead exemption credit to each
227 township collector in a particular county.

228 13. If, in any given year after 2005, the general assembly shall make an
229 appropriation for the funding of the homestead exemption credit that is signed
230 by the governor, then the director shall, by July thirty-first of such year, set the
231 homestead exemption limit. The limit shall be a single, statewide percentage
232 increase to tax liability, rounded to the nearest hundredth of a percent, which, if
233 applied to all homesteads of verified eligible owners who applied for the
234 homestead exemption credit in the immediately prior tax year, would cause all
235 of the amount of the appropriation, minus any withholding by the governor, to be

236 distributed during that fiscal year. If no appropriation is made by the general
237 assembly during any tax year or no funds are actually distributed pursuant to
238 any appropriation therefor, then no homestead preservation credit shall apply in
239 such year.

240 14. After setting the homestead exemption limit for applications made
241 after 2005, the director shall apply the limit to the homestead of each verified
242 eligible owner and calculate the credit to be associated with each verified eligible
243 owner's homestead, if any. The director shall send a list of those eligible owners
244 who are to receive the homestead exemption credit, including the amount of each
245 credit, the certified parcel number of the homestead, and the address of the
246 homestead property, to the county collectors or county clerks in counties with a
247 township form of government by August thirty-first. Pursuant to such
248 calculation, the director shall instruct the state treasurer as to how to distribute
249 the appropriation to the county collector's fund of each county where recipients
250 of the homestead exemption credit are located, so as to exactly offset each
251 homestead exemption credit being issued. As a result of the appropriation, in no
252 case shall a political subdivision receive more money than it would have received
253 absent the provisions of this section. Funds, at the direction of the collector of
254 the county or treasurer ex officio collector in counties with a township form of
255 government, shall be deposited in the county collector's fund of a county or may
256 be sent by mail to the collector of a county, or treasurer ex officio collector in
257 counties with a township form of government, not later than October first in any
258 year a homestead exemption credit is appropriated as a result of this section and
259 shall be distributed as moneys in such funds are commonly distributed from other
260 property tax revenues by the collector of the county or the treasurer ex officio
261 collector of the county in counties with a township form of government, so as to
262 exactly offset each homestead exemption credit being issued.

263 15. The department shall promulgate rules for implementation of this
264 section. Any rule or portion of a rule, as that term is defined in section 536.010,
265 RSMo, that is created under the authority delegated in this section shall become
266 effective only if it complies with and is subject to all of the provisions of chapter
267 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
268 536, RSMo, are nonseverable and if any of the powers vested with the general
269 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
270 or to disapprove and annul a rule are subsequently held unconstitutional, then
271 the grant of rulemaking authority and any rule proposed or adopted after August

272 28, 2004, shall be invalid and void. Any rule promulgated by the department
273 shall in no way impact, affect, interrupt, or interfere with the performance of the
274 required statutory duties of any county elected official, more particularly
275 including the county collector when performing such duties as deemed necessary
276 for the distribution of any homestead appropriation and the distribution of all
277 other real and personal property taxes.

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

289 17. This section shall apply to all tax years beginning on or after January
290 1, 2005. This subsection shall become effective June 28, 2004.

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

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

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

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