

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 28

AN ACT

To repeal sections 135.350 and 135.352, RSMo, and to enact in lieu thereof two new sections relating to low-income housing tax credits.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 135.350 and 135.352, RSMo, are repealed  
2 and two new sections enacted in lieu thereof, to be known as  
3 sections 135.350 and 135.352, to read as follows:

4           135.350. As used in [this section] sections 135.350 to  
5 135.363, unless the context clearly requires otherwise, the  
6 following words and phrases shall mean:

7           (1) "Commission", the Missouri housing development  
8 commission, or its successor agency;

9           (2) "Director", director of the department of revenue;

10           (3) "Eligibility statement", a statement authorized and  
11 issued by the commission certifying that a given project  
12 qualifies for the Missouri low-income housing tax credit. The  
13 commission shall promulgate rules establishing criteria upon  
14 which the eligibility statements will be issued. The eligibility  
15 statement shall specify the amount of the Missouri low-income  
16 housing tax credit allowed. The commission shall only authorize  
17 the tax credits to qualified projects which begin after June 18,

1 1991;

2 (4) "Eligible workforce housing development", a building or  
3 group of buildings located in this state in which at least sixty  
4 percent of the residential units in the building or group of  
5 buildings are rent-restricted and are workforce housing units  
6 which are designed to address a housing shortage that impairs the  
7 ability of the state to attract new businesses, or impairs the  
8 ability of existing businesses to recruit new employees;

9 (5) "Federal housing credit allocation", the amount of the  
10 federal low-income housing tax credits allocated to the state  
11 under 26 U.S.C. Section 42, as amended;

12 (6) "Federal low-income housing tax credit", the federal  
13 tax credit as provided in section 42 of the 1986 Internal Revenue  
14 Code, as amended;

15 [(5)] (7) "Low-income project", a housing project which has  
16 restricted rents that do not exceed thirty percent of median  
17 income for at least forty percent of its units occupied by  
18 persons of families having incomes of sixty percent or less of  
19 the median income, or at least twenty percent of the units  
20 occupied by persons or families having incomes of fifty percent  
21 or less of the median income;

22 [(6)] (8) "Median income", those incomes which are  
23 determined by the federal Department of Housing and Urban  
24 Development guidelines and adjusted for family size;

25 [(7)] (9) "Qualified Missouri project", a qualified  
26 low-income building as that term is defined in section 42 of the  
27 1986 Internal Revenue Code, as amended, which is located in  
28 Missouri;

1           (10) "State authorization limit", seventy percent of the  
2 federal housing credit allocation, increased by any amount of  
3 state tax credits that are recaptured under the provisions of  
4 section 135.355. "State authorization limit" shall not include  
5 tax credits authorized for projects financed through tax-exempt  
6 bond issuance;

7           [(8)] (11) "Taxpayer", person, firm or corporation subject  
8 to the state income tax imposed by the provisions of chapter 143  
9 (except withholding imposed by sections 143.191 to 143.265) or a  
10 corporation subject to the annual corporation franchise tax  
11 imposed by the provisions of chapter 147, or an insurance company  
12 paying an annual tax on its gross premium receipts in this state,  
13 or other financial institution paying taxes to the state of  
14 Missouri or any political subdivision of this state under the  
15 provisions of chapter 148, or an express company which pays an  
16 annual tax on its gross receipts in this state;

17           (12) "Workforce housing unit", a residential unit in an  
18 eligible workforce housing development that is rent-restricted so  
19 as to be affordable to natural persons or families in areas of  
20 the state identified by the department of economic development as  
21 being impacted by a housing shortage that impairs the ability of  
22 the state to attract new businesses, or impairs the ability of  
23 existing businesses to recruit new employees.

24           135.352. 1. A taxpayer owning an interest in a qualified  
25 Missouri project shall, subject to the limitations provided under  
26 the provisions of ~~subsection 3~~ subsections 3 to 5 of this  
27 section, be allowed a state tax credit, whether or not allowed a  
28 federal tax credit, to be termed the Missouri low-income housing

1 tax credit, if the commission issues an eligibility statement for  
2 that project.

3 2. For qualified Missouri projects placed in service after  
4 January 1, 1997, the Missouri low-income housing tax credit  
5 available to a project shall be such amount as the commission  
6 shall determine is necessary to ensure the feasibility of the  
7 project, up to an amount equal to the federal low-income housing  
8 tax credit for a qualified Missouri project, for a federal tax  
9 period, and such amount shall be subtracted from the amount of  
10 state tax otherwise due for the same tax period.

11 3. For all fiscal years beginning on or after July 1, 2019,  
12 the aggregate amount of tax credits authorized in a fiscal year  
13 for projects not financed through tax-exempt bond issuance shall  
14 not exceed the state authorization limit.

15 4. For all fiscal years beginning on or after July 1, 2019,  
16 in addition to the amount of tax credits authorized under  
17 subsection 3 of this section, tax credits in an amount not to  
18 exceed five percent of the federal housing credit allocation may  
19 be authorized each fiscal year solely to qualified Missouri  
20 projects that are not financed through tax-exempt bond issuance  
21 and are located in an eligible workforce housing development.

22 [3.] 5. No more than six million dollars in tax credits  
23 shall be authorized each fiscal year for projects financed  
24 through tax-exempt bond issuance. For all fiscal years beginning  
25 on or after July 1, 2019, no more than four million dollars  
26 annually in state tax credits shall be authorized each fiscal  
27 year to projects financed through tax-exempt bond issuance.  
28 Notwithstanding the provisions of subsection 3 of this section to

1 the contrary, to the extent that less than four million dollars  
2 in state tax credits are authorized to projects financed through  
3 tax-exempt bond issuance in any fiscal year, such remainder may  
4 be, for such fiscal year only, added to the annual amount  
5 authorized under subsection 3 of this section to projects that  
6 are not financed through tax-exempt bond issuance.

7 [4.] 6. The Missouri low-income housing tax credit shall be  
8 taken against the taxes and in the order specified pursuant to  
9 section 32.115. The credit authorized by this section shall not  
10 be refundable. Any amount of credit that exceeds the tax due for  
11 a taxpayer's taxable year may be carried back to any of the  
12 taxpayer's three prior taxable years or carried forward to any of  
13 the taxpayer's five subsequent taxable years.

14 [5.] 7. All or any portion of Missouri tax credits issued  
15 in accordance with the provisions of sections 135.350 to 135.362  
16 may be allocated to parties who are eligible pursuant to the  
17 provisions of subsection 1 of this section. Beginning January 1,  
18 1995, for qualified projects which began on or after January 1,  
19 1994, an owner of a qualified Missouri project shall certify to  
20 the director the amount of credit allocated to each taxpayer.  
21 The owner of the project shall provide to the director  
22 appropriate information so that the low-income housing tax credit  
23 can be properly allocated.

24 [6.] 8. In the event that recapture of Missouri low-income  
25 housing tax credits is required pursuant to subsection 2 of  
26 section 135.355, any statement submitted to the director as  
27 provided in this section shall include the proportion of the  
28 state credit required to be recaptured, the identity of each

1 taxpayer subject to the recapture and the amount of credit  
2 previously allocated to such taxpayer.

3 [7.] 9. The director of the department may promulgate rules  
4 and regulations necessary to administer the provisions of this  
5 section. No rule or portion of a rule promulgated pursuant to  
6 the authority of this section shall become effective unless it  
7 has been promulgated pursuant to the provisions of section  
8 536.024.