

SECOND REGULAR SESSION

SENATE BILL NO. 1023

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL

Read 1st time February 17, 2000, and 1,000 copies ordered printed.

4522S.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 135.400, RSMo 1994, and 135.403, RSMo Supp. 1999, relating to tax relief for investors in qualified small business, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Section 135.400, RSMo 1994, and section 135.403, RSMo Supp. 1999, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.400 and 135.403, to read as follows:

135.400. As used in sections 135.400 to 135.430, the following terms mean:

(1) "Certificate", a tax credit certificate issued by the department of economic development in accordance with sections 135.400 to 135.430;

(2) "Community bank", either a bank community development corporation or development bank, which are financial organizations which receive investments from commercial financial institutions regulated by the federal reserve, the office of the comptroller of the currency, the office of thrift supervision, or the Missouri division of finance. Community banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity investments in businesses or in real estate provided that such transactions have associated public benefits;

(3) "Community development corporation", a not for profit corporation and a recipient of Community Development Block Grant (CDBG) funds pursuant to the Housing Community Development Act of 1974. Such corporations design specific, comprehensive programs to stimulate economic development, housing or other public benefits leading to the development of economically sustainable neighborhoods or communities;

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

- (4) "Department", the Missouri department of economic development;
- (5) "Director", the director of the department of economic development, or a person acting under the supervision of the director;
- (6) "Investment", a transaction in which a Missouri small business or a community bank receives a monetary benefit from an investor pursuant to the provisions of sections 135.403 to 135.414;
- (7) "Investor", an individual, partnership, financial institution, trust or corporation meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;
- (8) "Missouri small business", an independently owned and operated business as defined in Title 15 U.S.C. Section 632(a) and as described by Title 13 C.F.R. Part 121, which is headquartered in Missouri and which employs at least eighty percent of its employees in Missouri, except that no such small business shall employ more than one hundred employees. Such businesses must be involved in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, insurance or professional services. For the purpose of qualifying for the tax credit pursuant to sections 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and marketing fuels derived from agriculture commodities, without regard for whether a cooperative marketing association has more than one hundred employees. Cooperative marketing associations organized pursuant to chapter 274, RSMo, shall not be required to comply with the requirements of section 135.414;
- (9) "Primary employment", work which pays at least the minimum wage and which is not seasonal or part-time;
- (10) "Principal owners", one or more persons who own an aggregate of **[fifty] twenty** percent or more of the Missouri small business and who are involved in the operation of the business as a full-time professional activity;
- (11) "Project", any commercial or industrial business or other economic development activity undertaken in a target area, designed to reduce conditions of blight, unemployment or widespread reliance on public assistance which creates permanent primary employment opportunities;
- (12) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;
- (13) "Target area", a group of blocks or a self-defined neighborhood where the rate of

poverty in the area is greater than twice the national poverty rate and as defined by the department of social services in conjunction with the department of economic development. Areas of the state satisfying the criteria of this subdivision may be designated as a "target area" following appropriate findings made and certified by the departments of economic development and social services. In making such findings, the departments of economic development and social services may use any commonly recognized records and statistical indices published or made available by any agency or instrumentality of the federal or state government. No area of the state shall be a target area until so certified by the department of social services and the revitalization plan submitted pursuant to section 208.335, RSMo, has received approval.

135.403. 1. Any investor who makes a qualified investment in a Missouri small business shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or, in the case of a qualified investment in a Missouri small business in a distressed community as defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and any investor who makes a qualified investment in a community bank or a community development corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the investment if the investment is made in a community bank or community development corporation for direct investment into a targeted area as defined in section 135.400. [The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed thirteen million dollars and at least four million dollars of the amount authorized by this section and certified by the department of economic development shall be for investment in Missouri small businesses in distressed communities. Authorization for all or any part of this four million dollar amount shall in no way restrict the eligibility of Missouri small businesses in distressed communities, as defined in section 135.530, for the remaining amounts authorized within this section. No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment into a targeted area shall be certified for any one project, as defined in section 135.400.] The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in which the qualified investment is made, or in any of the ten tax years thereafter. When the qualified small business is in a distressed community, as defined in section 135.530, the tax credit may also be used to satisfy the state tax liability of the owner of the certificate that was due during each of the previous three years in addition to the year in which the investment is made and any of the ten years thereafter. No investor may receive a tax credit pursuant to sections 135.400 to 135.430 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The department of revenue shall grant tax credits in the same order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections 135.400 to 135.430, certificates of tax credit issued in accordance with

these sections may be transferred, sold or assigned by notarized endorsement thereof which names the transferee.

2. The amount of qualified investments which can be made is limited so that the aggregate of all tax credits authorized pursuant to the provisions of sections 135.400 to 135.430 shall not exceed [nineteen] **thirty** million dollars. **The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed twenty-four million dollars, at least four million dollars of which shall be authorized exclusively for investment in Missouri small businesses in distressed communities, as defined in section 135.530. Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business.** Six million dollars in tax credits shall be available as a result of investments in community banks or community development corporations. [Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business.] **No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment into a targeted area shall be certified for any one project, as defined in section 135.400.**

✓

Copy