

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 3
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, April 14, 2005, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 3, adopted April 28, 2005.

Taken up for Perfection April 28, 2005. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0413S.04P

AN ACT

To repeal sections 135.327 and 135.329, RSMo, and to enact in lieu thereof two new sections relating to adoption tax credits, with an emergency clause.

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

Section A. Sections 135.327 and 135.329, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.327 and 135.329, to read as follows:

135.327. 1. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo]; provided, however, that beginning on or after July 1, 2004, a minimum of fifty percent of the tax credits allowed shall be allocated for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated]. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be

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

eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars and shall not exceed four million dollars in any one fiscal year beginning on or after July 1, 2004[; provided, however, that in the first ninety days following each July first, if less than two million dollars in credits have been issued for adoption of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated, the remaining amount of the four million dollar cap shall be available for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated].

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

5. [The director of revenue shall establish a procedure by which, for each fiscal year, the cumulative amount of tax credits authorized in this section is equally apportioned among all taxpayers within the two categories specified in subsection 2 of this section claiming the credit in that fiscal year. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers within each category can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

6.] The director of revenue shall submit to the general assembly, by January 1, 2005, and each succeeding year, information by income levels of those individual taxpayers who have qualified and claimed the credit authorized in this section, regardless of whether those taxpayers have assigned, transferred, or sold such credits. The information shall indicate the number of such taxpayers [with federal adjusted gross income in the immediately preceding tax year of less than one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and including one hundred ninety thousand dollars, and of more than one hundred ninety thousand dollars] **within each income limitation set forth in the federal adoption tax credit law, 26 U.S.C. Section 23, as amended.**

135.329. No credit shall be allowable for that portion of the nonrecurring adoption expenses for which a credit is allowable and taken under any similar provision of federal, state, or local law. Credit may be taken up to the amount allowable under section 135.327 for that portion of the nonrecurring adoption expenses which exceed the credit taken under such other provision of federal, state or local law. If there is a deduction allowable and taken under any other provision of federal, state or local law which is similar to the credit allowable under section 135.327, the credit allowable for nonrecurring adoption expenses shall be reduced by the amount of the decrease in the tax liability resulting from taking such deduction. No credit shall be allowable for that portion of the nonrecurring adoption expenses paid from any funds received under any federal, state, or local program. **The credit allowable for nonrecurring adoption expenses shall be reduced to the same degree that the federal adoption tax credit is reduced by the income limitation set forth in the federal adoption tax credit law, 26 U.S.C. Section 23, as amended.**

Section B. Because of the need to facilitate the adoption of children, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Bill

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