

FIRST REGULAR SESSION

# SENATE BILL NO. 113

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Pre-filed December 4, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0085S.01

## AN ACT

To repeal section 100.286, RSMo, and to enact in lieu thereof one new section relating to the issuance of Missouri development finance board development fund contribution tax credits.

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

Section A. Section 100.286, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 100.286, to read as follows:

100.286. 1. Within the discretion of the board, the development and  
2 reserve fund, the infrastructure development fund or the export finance fund may  
3 be pledged to secure the payment of any bonds or notes issued by the board, or  
4 to secure the payment of any loan made by the board or a participating lender  
5 which loan:

6 (1) Is requested to finance any project or export trade activity;

7 (2) Is requested by a borrower who is demonstrated to be financially  
8 responsible;

9 (3) Can reasonably be expected to provide a benefit to the economy of this  
10 state;

11 (4) Is otherwise secured by a mortgage or deed of trust on real or personal  
12 property or other security satisfactory to the board; provided that loans to finance  
13 export trade activities may be secured by export accounts receivable or  
14 inventories of exportable goods satisfactory to the board;

15 (5) Does not exceed five million dollars;

16 (6) Does not have a term longer than five years if such loan is made to  
17 finance export trade activities; and

18 (7) Is, when used to finance export trade activities, made to small or

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

19 medium size businesses or agricultural businesses, as may be defined by the  
20 board.

21           2. The board shall prescribe standards for the evaluation of the financial  
22 condition, business history, and qualifications of each borrower and the terms and  
23 conditions of loans which may be secured, and may require each application to  
24 include a financial report and evaluation by an independent certified public  
25 accounting firm, in addition to such examination and evaluation as may be  
26 conducted by any participating lender.

27           3. Each application for a loan secured by the development and reserve  
28 fund, the infrastructure development fund or the export finance fund shall be  
29 reviewed in the first instance by any participating lender to whom the application  
30 was submitted. If satisfied that the standards prescribed by the board are met  
31 and that the loan is otherwise eligible to be secured by the development and  
32 reserve fund, the infrastructure development fund or the export finance fund, the  
33 participating lender shall certify the same and forward the application for final  
34 approval to the board.

35           4. The securing of any loans by the development and reserve fund, the  
36 infrastructure development fund or the export finance fund shall be conditioned  
37 upon approval of the application by the board, and receipt of an annual reserve  
38 participation fee, as prescribed by the board, submitted by or on behalf of the  
39 borrower.

40           5. The securing of any loan by the export finance fund for export trade  
41 activities shall be conditioned upon the board's compliance with any applicable  
42 treaties and international agreements, such as the general agreement on tariffs  
43 and trade and the subsidies code, to which the United States is then a party.

44           6. Any taxpayer, including any charitable organization that is exempt  
45 from federal income tax and whose Missouri unrelated business taxable income,  
46 if any, would be subject to the state income tax imposed under chapter 143,  
47 RSMo, shall be entitled to a tax credit against any tax otherwise due under the  
48 provisions of chapter 143, RSMo, excluding withholding tax imposed by sections  
49 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the  
50 amount of fifty percent of any amount contributed in money or property by the  
51 taxpayer to the development and reserve fund, the infrastructure development  
52 fund or the export finance fund during the taxpayer's tax year, provided, however,  
53 the total tax credits awarded in any calendar year beginning after January 1,  
54 1994, shall not be the greater of ten million dollars or five percent of the average

55 growth in general revenue receipts in the preceding three fiscal years. [This limit  
56 may be exceeded only upon joint agreement by the commissioner of  
57 administration, the director of the department of economic development, and the  
58 director of the department of revenue that such action is essential to ensure  
59 retention or attraction of investment in Missouri.] If the board receives, as a  
60 contribution, real property, the contributor at such contributor's own expense  
61 shall have two independent appraisals conducted by appraisers certified by the  
62 Master Appraisal Institute. Both appraisals shall be submitted to the board, and  
63 the tax credit certified by the board to the contributor shall be based upon the  
64 value of the lower of the two appraisals. The board shall not certify the tax credit  
65 until the property is deeded to the board. Such credit shall not apply to reserve  
66 participation fees paid by borrowers under sections 100.250 to 100.297. The  
67 portion of earned tax credits which exceeds the taxpayer's tax liability may be  
68 carried forward for up to five years.

69         7. Notwithstanding any provision of law to the contrary, any taxpayer  
70 may sell, assign, exchange, convey or otherwise transfer tax credits allowed in  
71 subsection 6 of this section under the terms and conditions prescribed in  
72 subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the  
73 assignor for the purpose of this subsection, may sell, assign, exchange or  
74 otherwise transfer earned tax credits:

75             (1) For no less than seventy-five percent of the par value of such credits;  
76 and

77             (2) In an amount not to exceed one hundred percent of annual earned  
78 credits.

79 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose  
80 of this subsection, may use the acquired credits to offset up to one hundred  
81 percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding  
82 withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147,  
83 RSMo, or chapter 148, RSMo. Unused credits in the hands of the assignee may  
84 be carried forward for up to five years, provided all such credits shall be claimed  
85 within ten years following the tax years in which the contribution was made. The  
86 assignor shall enter into a written agreement with the assignee establishing the  
87 terms and conditions of the agreement and shall perfect such transfer by  
88 notifying the board in writing within thirty calendar days following the effective  
89 day of the transfer and shall provide any information as may be required by the  
90 board to administer and carry out the provisions of this section. Notwithstanding

91 any other provision of law to the contrary, the amount received by the assignor  
92 of such tax credit shall be taxable as income of the assignor, and the excess of the  
93 par value of such credit over the amount paid by the assignee for such credit shall  
94 be taxable as income of the assignee.

✓

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Bill

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