

SECOND REGULAR SESSION

SENATE BILL NO. 766

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 8, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4381S.03I

AN ACT

To repeal section 135.1150, RSMo, and to enact in lieu thereof one new section relating to the residential treatment agency tax credit.

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

Section A. Section 135.1150, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.1150, to read as follows:

135.1150. 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Children's home", a professional home for children who are victims of abuse or neglect, that provides licensed counseling and professional social work services, physical support, and education, and that:

(a) Is registered as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(b) Is a residential care facility licensed under section 210.484;

(c) Is under contract with the department to provide treatment services for children who are residents or wards of residents of this state; and

(d) Receives eligible donations.

Any home that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the home that are licensed;

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

20 (3) "Department", the Missouri department of social services;

21 [(3)] (4) "Eligible donation", donations received from a taxpayer by an
22 agency **or children's home** that are used solely to provide direct care services
23 to children who are residents of this state. Eligible donations may include cash,
24 publicly traded stocks and bonds, and real estate that will be valued and
25 documented according to rules promulgated by the department of social
26 services. For purposes of this section, "direct care services" include but are not
27 limited to increasing the quality of care and service for children through improved
28 employee compensation and training;

29 [(4)] (5) "Qualified residential treatment agency" or "agency", a
30 residential care facility that is licensed under section 210.484, accredited by the
31 Council on Accreditation (COA), the Joint Commission on Accreditation of
32 Healthcare Organizations (JCAHO), or the Commission on Accreditation of
33 Rehabilitation Facilities (CARF), and is under contract with the Missouri
34 department of social services to provide treatment services for children who are
35 residents or wards of residents of this state, and that receives eligible
36 donations. Any agency that operates more than one facility or at more than one
37 location shall be eligible for the tax credit under this section only for any eligible
38 donation made to facilities or locations of the agency which are licensed and
39 accredited;

40 [(5)] (6) "Taxpayer", any of the following individuals or entities who
41 make an eligible donation to an agency **or children's home**:

42 (a) A person, firm, partner in a firm, corporation, or a shareholder in an
43 S corporation doing business in the state of Missouri and subject to the state
44 income tax imposed in chapter 143;

45 (b) A corporation subject to the annual corporation franchise tax imposed
46 in chapter 147;

47 (c) An insurance company paying an annual tax on its gross premium
48 receipts in this state;

49 (d) Any other financial institution paying taxes to the state of Missouri
50 or any political subdivision of this state under chapter 148;

51 (e) An individual subject to the state income tax imposed in chapter 143;

52 (f) Any charitable organization which is exempt from federal income tax
53 and whose Missouri unrelated business taxable income, if any, would be subject
54 to the state income tax imposed under chapter 143.

55 3. For all taxable years beginning on or after January 1, 2007, any

56 taxpayer shall be allowed a credit against the taxes otherwise due under chapter
57 147, 148, or 143, excluding withholding tax imposed by sections 143.191 to
58 143.265, in an amount equal to fifty percent of the amount of an eligible donation,
59 subject to the restrictions in this section. The amount of the tax credit claimed
60 shall not exceed the amount of the taxpayer's state income tax liability in the tax
61 year for which the credit is claimed. Any amount of credit that the taxpayer is
62 prohibited by this section from claiming in a tax year shall not be refundable, but
63 may be carried forward to any of the taxpayer's four subsequent taxable years.

64 4. To claim the credit authorized in this section, an agency **or children's**
65 **home** may submit to the department an application for the tax credit authorized
66 by this section on behalf of taxpayers. The department shall verify that the
67 agency **or children's home** has submitted the following items accurately and
68 completely:

69 (1) A valid application in the form and format required by the department;

70 (2) A statement attesting to the eligible donation received, which shall
71 include the name and taxpayer identification number of the individual making
72 the eligible donation, the amount of the eligible donation, and the date the
73 eligible donation was received by the agency **or children's home**; and

74 (3) Payment from the agency **or children's home** equal to the value of
75 the tax credit for which application is made. If the agency **or children's home**
76 applying for the tax credit meets all criteria required by this subsection, the
77 department shall issue a certificate in the appropriate amount.

78 5. An agency **or children's home** may apply for tax credits in an
79 aggregate amount that does not exceed ~~[forty]~~ **fifty** percent of the payments made
80 by the department to the agency **or children's home** in the preceding twelve
81 months.

82 6. Tax credits issued under this section may be assigned, transferred,
83 sold, or otherwise conveyed, and the new owner of the tax credit shall have the
84 same rights in the credit as the taxpayer. Whenever a certificate is assigned,
85 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed
86 with the department specifying the name and address of the new owner of the tax
87 credit or the value of the credit.

88 7. The department shall promulgate rules to implement the provisions of
89 this section. Any rule or portion of a rule, as that term is defined in section
90 536.010, that is created under the authority delegated in this section shall
91 become effective only if it complies with and is subject to all of the provisions of

92 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
93 nonseverable and if any of the powers vested with the general assembly pursuant
94 to chapter 536 to review, to delay the effective date, or to disapprove and annul
95 a rule are subsequently held unconstitutional, then the grant of rulemaking
96 authority and any rule proposed or adopted after August 28, 2006, shall be
97 invalid and void.

98 8. [Under section 23.253 of the Missouri sunset act:

99 (1) The provisions of the new program authorized under this section shall
100 automatically sunset six years after August 28, 2006, unless reauthorized by an
101 act of the general assembly; and

102 (2) If such program is reauthorized, the program authorized under this
103 section shall automatically sunset twelve years after the effective date of the
104 reauthorization of this section; and

105 (3)] **Under section 23.253 of the Missouri sunset act, the**
106 **provisions of the program authorized under this section are hereby**
107 **reauthorized and shall automatically sunset on August 28, 2018.** This
108 section shall terminate on September first of the calendar year immediately
109 following the calendar year in which the program authorized under this section
110 is sunset.

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