

SECOND REGULAR SESSION

SENATE BILL NO. 783

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CURLS.

Read 1st time February 13, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5721S.011

AN ACT

To repeal section 99.1205, RSMo, and to enact in lieu thereof one new section relating to the distressed areas land assemblage tax credit.

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

Section A. Section 99.1205, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 99.1205, to read as follows:

99.1205. 1. This section shall be known and may be cited as the
2 "Distressed Areas Land Assemblage Tax Credit Act".

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

4 (1) "Acquisition costs", the purchase price for the eligible parcel, costs of
5 environmental assessments, closing costs, real estate brokerage fees, reasonable
6 demolition costs of vacant structures, and reasonable maintenance costs incurred
7 to maintain an acquired eligible parcel [for a period of five years after the
8 acquisition of such eligible parcel]. Acquisition costs shall not include costs for
9 title insurance and survey, attorney's fees, relocation costs, fines, or bills from a
10 municipality;

11 (2) "Applicant", any person, firm, partnership, trust, limited liability
12 company, or corporation which has:

13 (a) Incurred, within an eligible project area, acquisition costs for the
14 acquisition of land sufficient to satisfy the requirements under subdivision (8) of
15 this subsection; and

16 (b) Been appointed or selected, pursuant to a redevelopment agreement
17 by a municipal authority, as a redeveloper or similar designation, under an
18 economic incentive law, to redevelop an urban renewal area or a redevelopment

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

19 area that includes all of an eligible project area or whose redevelopment plan or
20 redevelopment area, which encompasses all of an eligible project area, has been
21 approved or adopted under an economic incentive law. In addition to being
22 designated the redeveloper, the applicant shall have been designated to receive
23 economic incentives only after the municipal authority has considered the amount
24 of the tax credits in adopting such economic incentives as provided in subsection
25 8 of this section **unless such economic incentives were approved for an**
26 **eligible project area qualified as such under subparagraph c. of**
27 **paragraph (b) of subdivision (8) of this subsection.** The redevelopment
28 agreement shall provide that:

29 a.] the funds generated through the use or sale of the tax credits issued
30 under this section shall be used to redevelop the eligible project
31 area[;]. **Additionally, except for projects in eligible project areas**
32 **qualified as such under subparagraph c. of paragraph (b) of subdivision**
33 **(8) of this subsection, the redevelopment agreement shall provide that:**

34 [b.] a. No more than seventy-five percent of the urban renewal area
35 identified in the urban renewal plan or the redevelopment area identified in the
36 redevelopment plan may be redeveloped by the applicant; and

37 [c.] b. The remainder of the urban renewal area or the redevelopment
38 area shall be redeveloped by co-redevelopers or redevelopers to whom the
39 applicant has assigned its redevelopment rights and obligations under the urban
40 renewal plan or the redevelopment plan;

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

42 (4) "Condemnation proceedings", any action taken by, or on behalf of, an
43 applicant to initiate an action in a court of competent jurisdiction to use the
44 power of eminent domain to acquire a parcel within the eligible project
45 area. Condemnation proceedings shall include any and all actions taken after the
46 submission of a notice of intended acquisition to an owner of a parcel within the
47 eligible project area by a municipal authority or any other person or entity under
48 section 523.250;

49 (5) "Department", the Missouri department of economic development;

50 (6) "Economic incentive laws", any provision of Missouri law pursuant to
51 which economic incentives are provided to redevelopers of a parcel or parcels to
52 redevelop the land, such as tax abatement or payments in lieu of taxes, or
53 redevelopment plans or redevelopment projects approved or adopted which
54 include the use of economic incentives to redevelop the land. Economic incentive

55 laws include, but are not limited to, the land clearance for redevelopment
56 authority law under sections 99.300 to 99.660, the real property tax increment
57 allocation redevelopment act under sections 99.800 to 99.865, the Missouri
58 downtown and rural economic stimulus act under sections 99.915 to 99.1060, and
59 the downtown revitalization preservation program under sections 99.1080 to
60 99.1092;

61 (7) "Eligible parcel", a parcel:

62 (a) Which is located within an eligible project area;

63 (b) Which is to be redeveloped;

64 (c) On which the applicant has not commenced construction prior to
65 November 28, 2007;

66 (d) Which has been acquired without the commencement of any
67 condemnation proceedings with respect to such parcel brought by or on behalf of
68 the applicant. Any parcel acquired by the applicant from a municipal authority
69 shall not constitute an eligible parcel; and

70 (e) On which all outstanding taxes, fines, and bills levied by municipal
71 governments that were levied by the municipality during the time period that the
72 applicant held title to the eligible parcel have been paid in full;

73 (8) "Eligible project area", an area which shall have satisfied the following
74 requirements:

75 (a) The eligible project area shall consist of at least seventy-five acres and
76 may include parcels within its boundaries that do not constitute an eligible
77 parcel;

78 (b) At least eighty percent of the eligible project area shall be located
79 within:

80 a. A Missouri qualified census tract area, as designated by the United
81 States Department of Housing and Urban Development under 26 U.S.C. Section
82 42[,]; or [within]

83 b. A distressed community as that term is defined in section 135.530; **or**

84 c. **A redevelopment area as that term is defined under the real**
85 **property tax increment allocation redevelopment act under sections**
86 **99.800 to 99.865 that:**

87 (i) **Contains at least three hundred acres of real property;**

88 (ii) **Includes or previously included in excess of one million**
89 **square feet of commercial building space;**

90 (iii) **Contains eighty or more parcels; and**

91 **(iv) Is located within a low-income community, as defined by 26**
92 **U.S.C. Section 45D as of January 1, 2011;**

93 (c) The eligible parcels acquired by the applicant within the eligible
94 project area shall total at least fifty acres, which may consist of contiguous and
95 noncontiguous parcels;

96 (d) **Other than in eligible project areas qualified as such under**
97 **subparagraph c. of paragraph (b) of this subdivision,** the average number
98 of parcels per acre in an eligible project area shall be four or more;

99 (e) Less than five percent of the acreage within the boundaries of the
100 eligible project area shall consist of owner-occupied residences which the
101 applicant has identified for acquisition under the urban renewal plan or the
102 redevelopment plan pursuant to which the applicant was appointed or selected
103 as the redeveloper or by which the person or entity was qualified as an applicant
104 under this section on the date of the approval or adoption of such plan;

105 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs
106 shall not include attorney's fees;

107 (10) "Maintenance costs", costs of boarding up and securing vacant
108 structures, costs of removing trash, and costs of cutting grass and weeds;

109 (11) "Municipal authority", any city, town, village, county, public body
110 corporate and politic, political subdivision, or land trust of this state established
111 and authorized to own land within the state;

112 (12) "Municipality", any city, town, village, or county;

113 (13) "Parcel", a single lot or tract of land, and the improvements thereon,
114 owned by, or recorded as the property of, one or more persons or entities;

115 (14) "Redeveloped", the process of undertaking and carrying out a
116 redevelopment plan or urban renewal plan pursuant to which the conditions
117 which provided the basis for an eligible project area to be included in a
118 redevelopment plan or urban renewal plan are to be reduced or eliminated by
119 redevelopment or rehabilitation; and

120 (15) "Redevelopment agreement", the redevelopment agreement or similar
121 agreement into which the applicant entered with a municipal authority and which
122 is the agreement for the implementation of the urban renewal plan or
123 redevelopment plan pursuant to which the applicant was appointed or selected
124 as the redeveloper or by which the person or entity was qualified as an applicant
125 under this section; and such appointment or selection shall have been approved
126 by an ordinance of the governing body of the municipality, or municipalities, or

127 in the case of any city not within a county, the board of aldermen, in which the
128 eligible project area is located. The redevelopment agreement shall include a
129 time line for redevelopment of the eligible project area. The redevelopment
130 agreement shall state that the named developer shall be subject to the provisions
131 of chapter 290.

132 **3. Subject to the limitations provided in subsection 7 of this**
133 **section**, any applicant shall be entitled to a tax credit against the taxes imposed
134 under chapters 143, 147, and 148, except for sections 143.191 to 143.265, in an
135 amount equal to fifty percent of the acquisition costs, **except that the tax**
136 **credit for reasonable demolition costs shall be in an amount equal to**
137 **one hundred percent of such costs**, and one hundred percent of the interest
138 costs incurred [for a period of five years] after the acquisition of an eligible
139 parcel. [No tax credits shall be issued under this section until after January 1,
140 2008.]

141 4. If the amount of such tax credit exceeds the total tax liability for the
142 year in which the applicant is entitled to receive a tax credit, the amount that
143 exceeds the state tax liability may be carried forward for credit against the taxes
144 imposed under chapters 143, 147, and 148 for the succeeding six years, or until
145 the full credit is used, whichever occurs first. The applicant shall not be entitled
146 to a tax credit for taxes imposed under sections 143.191 to 143.265. Applicants
147 entitled to receive such tax credits may transfer, sell, or assign the tax
148 credits. Tax credits granted to a partnership, a limited liability company taxed
149 as a partnership, or multiple owners of property shall be passed through to the
150 partners, members, or owners respectively pro rata or pursuant to an executed
151 agreement among the partners, members, or owners documenting an alternate
152 distribution method.

153 5. A purchaser, transferee, or assignee of the tax credits authorized under
154 this section may use acquired tax credits to offset up to one hundred percent of
155 the tax liabilities otherwise imposed under chapters 143, 147, and 148, except for
156 sections 143.191 to 143.265. A seller, transferor, or assignor shall perfect such
157 transfer by notifying the department in writing within thirty calendar days
158 following the effective date of the transfer and shall provide any information as
159 may be required by the department to administer and carry out the provisions of
160 this section.

161 6. To claim tax credits authorized under this section, an applicant shall
162 submit to the department an application for a certificate. An applicant shall

163 identify the boundaries of the eligible project area in the application. The
164 department shall verify that the applicant has submitted a valid application in
165 the form and format required by the department. The department shall verify
166 that the municipal authority held the requisite hearings and gave the requisite
167 notices for such hearings in accordance with the applicable economic incentive
168 act, and municipal ordinances. On [an annual] **a quarterly** basis, an applicant
169 may file for the tax credit for the acquisition costs, and for the tax credit for the
170 interest costs, subject to the limitations of this section. If an applicant applying
171 for the tax credit meets the criteria required under this section, the department
172 shall issue a certificate in the appropriate amount. If an applicant receives a tax
173 credit for maintenance costs as a part of the applicant's acquisition costs, the
174 department shall post on its Internet website the amount and type of
175 maintenance costs and a description of the redevelopment project for which the
176 applicant received a tax credit within thirty days after the department issues the
177 certificate to the applicant.

178 7. The total aggregate amount of tax credits authorized under this section
179 shall not exceed ninety-five million dollars. At no time shall the annual amount
180 of the tax credits issued under this section exceed [twenty] **thirty** million dollars.
181 If the tax credits that are to be issued under this section exceed, in any year, the
182 [twenty] **thirty** million dollar limitation, the department shall either:

183 (1) Issue tax credits to the applicant in the amount of [twenty] **thirty**
184 million dollars, if there is only one applicant entitled to receive tax credits in that
185 year; or

186 (2) Issue the tax credits [on a pro rata basis] to all applicants entitled to
187 receive tax credits in that year **as provided in this subdivision.**

188 **(a) The department shall determine on an ongoing basis during**
189 **the course of each calendar year the amount of tax credits that have**
190 **been issued to each applicant for each eligible project area during such**
191 **year, and the amount of tax credits remaining available for issuance**
192 **with respect to such calendar year, if any.**

193 **(b) Applicants applying for tax credits with respect to projects**
194 **located in eligible project areas qualified as such under subparagraph**
195 **c. of paragraph (b) of subdivision (8) of subsection 2 of this section shall**
196 **not, in the aggregate, be issued tax credits in excess of fifty percent of**
197 **the annual thirty million dollar limitation with respect to such**
198 **calendar year. If more than one applicant qualifies for issuance of tax**

199 credits under the preceding sentence in a given calendar year, such tax
200 credits shall be issued on a pro rata basis. Applicants applying for tax
201 credits with respect to projects located in any other eligible project
202 areas shall not, in the aggregate, be issued tax credits in excess of fifty
203 percent of the annual thirty million dollar limitation with respect to
204 such calendar year. If more than one applicant qualifies for issuance
205 of tax credits under the preceding sentence in a given calendar year,
206 such tax credits shall be issued on a pro rata basis.

207 (c) In the event that the department determines, as of December
208 fifteenth of a given calendar year, that the full amount of tax credits
209 available for such calendar year under paragraph (b) of this
210 subdivision with respect to projects located in eligible project areas
211 qualified as such under subparagraph c. of paragraph (b) of subdivision
212 (8) of subsection 2 of this section was not issued, then the department
213 shall make available for allocation to qualifying applicants with respect
214 to projects located in any other eligible project areas, the unissued
215 amount of such tax credits. In the event that the department
216 determines, as of December fifteenth of a given calendar year, that the
217 full amount of tax credits available for such calendar year under
218 paragraph (b) of this subdivision with respect to projects not located
219 in eligible project areas qualified as such under subparagraph c of
220 paragraph (b) of subdivision (8) of subsection 2 of this section, was not
221 issued, then the department shall make available for allocation to
222 qualifying applicants with respect to projects located in eligible project
223 areas which qualified as such under subparagraph c. of paragraph (b)
224 of subdivision (8) of subsection 2 of this section, the unissued amount
225 of such tax credits.

226 (d) Any amount of tax credits, which an applicant is, or applicants are,
227 entitled to receive on an annual basis and are not issued due to the [twenty]
228 thirty million dollar limitation, shall be carried forward for the benefit of the
229 applicant or applicants to subsequent years. No tax credits provided under this
230 section shall be authorized after August 28, [2013] 2016. Any tax credits which
231 have been authorized on or before August 28, [2013] 2016, but not issued, may
232 be issued, subject to the limitations provided under this subsection, until all such
233 authorized tax credits have been issued.

234 8. Upon issuance of any tax credits pursuant to this section, the

235 department shall report to the municipal authority the applicant's name and
236 address, the parcel numbers of the eligible parcels for which the tax credits were
237 issued, the itemized acquisition costs and interest costs for which tax credits were
238 issued, and the total value of the tax credits issued. The municipal authority and
239 the state shall not consider the amount of the tax credits as an applicant's cost,
240 but shall include the tax credits in any sources and uses and cost benefit analysis
241 reviewed or created for the purpose of awarding other economic incentives. The
242 amount of the tax credits shall not be considered an applicant's cost in the
243 evaluation of the amount of any award of any other economic incentives, but shall
244 be considered in measuring the reasonableness of the rate of return to the
245 applicant with respect to such award of other economic incentives. The municipal
246 authority shall provide the report to any relevant commission, board, or entity
247 responsible for the evaluation and recommendation or approval of other economic
248 incentives to assist in the redevelopment of the eligible project area. Tax credits
249 authorized under this section shall constitute redevelopment tax credits, as such
250 term is defined under section 135.800, and shall be subject to all provisions
251 applicable to redevelopment tax credits provided under sections 135.800 to
252 135.830.

253 9. The department may promulgate rules to implement the provisions of
254 this section. Any rule or portion of a rule, as that term is defined in section
255 536.010, that is created under the authority delegated in this section shall
256 become effective only if it complies with and is subject to all of the provisions of
257 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
258 nonseverable and if any of the powers vested with the general assembly pursuant
259 to chapter 536 to review, to delay the effective date, or to disapprove and annul
260 a rule are subsequently held unconstitutional, then the grant of rulemaking
261 authority and any rule proposed or adopted after August 28, 2007, shall be
262 invalid and void.

263 **10. On or after January 1, 2016, the department shall review any**
264 **project undertaken within an eligible project area qualified as such**
265 **under subparagraph c. of paragraph (b) of subdivision (8) of subsection**
266 **2 of this section. In the event that the department determines in its**
267 **reasonable discretion that such project has not promoted, grown, or**
268 **retained, or is not reasonably likely to promote, grow, or retain**
269 **significant employment within the state, then the department may**
270 **reduce or otherwise modify any state assistance or tax credits approved**

271 **for the applicant undertaking such projects other than those credits**
272 **granted to the applicant pursuant to this section and in an amount not**
273 **to exceed the credits granted to the applicant under this section.**

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Unofficial

Bill

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