

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE NO. 2

FOR

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FOR

SENATE BILL NO. 590

AN ACT

To repeal sections 253.545, 253.550, 253.559, and 620.1900, RSMo, and to enact in lieu thereof four new sections relating to historic buildings.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 253.545, 253.550, 253.559, and  
2 620.1900, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 253.545, 253.550, 253.559,  
4 and 620.1900, to read as follows:

5 253.545. As used in sections 253.545 to 253.559, the  
6 following terms mean, unless the context requires otherwise:

7 (1) "Certified historic structure", a property located in  
8 Missouri and listed individually on the National Register of  
9 Historic Places;

10 (2) "Deed in lieu of foreclosure or voluntary conveyance",  
11 a transfer of title from a borrower to the lender to satisfy the  
12 mortgage debt and avoid foreclosure;

13 (3) "Eligible property", property located in Missouri and  
14 offered or used for residential or business purposes;

1 (4) "Leasehold interest", a lease in an eligible property  
2 for a term of not less than thirty years;

3 (5) "Principal", a managing partner, general partner, or  
4 president of a taxpayer;

5 (6) "Projected net fiscal benefit", the total net fiscal  
6 benefit to the state or municipality, less any state or local  
7 benefits offered to the taxpayer for a project, as determined by  
8 the department of economic development;

9 (7) "Qualified census tract", a census tract with a poverty  
10 rate of twenty percent or higher as determined by a map and  
11 listing of census tracts which shall be published by the  
12 department of economic development and updated on a five-year  
13 cycle, and which map and listing shall depict census tracts with  
14 twenty percent poverty rate or higher, grouped by census tracts  
15 with twenty percent to forty-two percent poverty, and forty-two  
16 percent to eighty-one percent poverty as determined by the most  
17 current five-year figures published by the American Community  
18 Survey conducted by the United States Census Bureau;

19 (8) "Structure in a certified historic district", a  
20 structure located in Missouri which is certified by the  
21 department of natural resources as contributing to the historic  
22 significance of a certified historic district listed on the  
23 National Register of Historic Places, or a local district that  
24 has been certified by the United States Department of the  
25 Interior;

26 [(7)] (9) "Taxpayer", any person, firm, partnership, trust,  
27 estate, limited liability company, or corporation.

28 253.550. 1. Any taxpayer incurring costs and expenses for

1 the rehabilitation of eligible property, which is a certified  
2 historic structure or structure in a certified historic district,  
3 may, subject to the provisions of this section and section  
4 253.559, receive a credit against the taxes imposed pursuant to  
5 chapters 143 and 148, except for sections 143.191 to 143.265, on  
6 such taxpayer in an amount equal to twenty-five percent of the  
7 total costs and expenses of rehabilitation incurred after January  
8 1, 1998, which shall include, but not be limited to, qualified  
9 rehabilitation expenditures as defined under section 47(c)(2)(A)  
10 of the Internal Revenue Code of 1986, as amended, and the related  
11 regulations thereunder, provided the rehabilitation costs  
12 associated with rehabilitation and the expenses exceed fifty  
13 percent of the total basis in the property and the rehabilitation  
14 meets standards consistent with the standards of the Secretary of  
15 the United States Department of the Interior for rehabilitation  
16 as determined by the state historic preservation officer of the  
17 Missouri department of natural resources.

18 2. (1) During the period beginning on January 1, 2010, but  
19 ending on or after June 30, 2010, the department of economic  
20 development shall not approve applications for tax credits under  
21 the provisions of subsections ~~[3]~~ 4 and ~~[8]~~ 10 of section 253.559  
22 which, in the aggregate, exceed seventy million dollars,  
23 increased by any amount of tax credits for which approval shall  
24 be rescinded under the provisions of section 253.559. For each  
25 fiscal year beginning on or after July 1, 2010, but ending before  
26 June 30, 2018, the department of economic development shall not  
27 approve applications for tax credits under the provisions of  
28 subsections ~~[3]~~ 4 and ~~[8]~~ 10 of section 253.559 which, in the

1 aggregate, exceed one hundred forty million dollars, increased by  
2 any amount of tax credits for which approval shall be rescinded  
3 under the provisions of section 253.559. For each fiscal year  
4 beginning on or after July 1, 2018, the department of economic  
5 development shall not approve applications for tax credits under  
6 the provisions of subsections 4 and 10 of section 253.559 which,  
7 in the aggregate, exceed ninety million dollars, increased by any  
8 amount of tax credits for which approval shall be rescinded under  
9 the provisions of section 253.559. The limitations provided  
10 under this subsection shall not apply to applications approved  
11 under the provisions of subsection [3] 4 of section 253.559 for  
12 projects to receive less than two hundred seventy-five thousand  
13 dollars in tax credits.

14 (2) For each fiscal year beginning on or after July 1,  
15 2018, the department shall authorize an amount up to, but not to  
16 exceed, an additional thirty million dollars in tax credits  
17 issued under subsections 4 and 10 of section 253.559, provided  
18 that such tax credits are authorized solely for projects located  
19 in a qualified census tract.

20 (3) For each fiscal year beginning on or after July 1,  
21 2018, if the maximum amount of tax credits allowed in any fiscal  
22 year as provided under subdivisions (1) and (2) of this  
23 subsection is authorized, the maximum amount of tax credits  
24 allowed under subdivision (1) of this subsection shall be  
25 adjusted by the percentage increase in the Consumer Price Index  
26 for All Urban Consumers, or its successor index, as such index is  
27 defined and officially reported by the United States Department  
28 of Labor, or its successor agency. Only one such adjustment

1 shall be made for each instance in which the provisions of this  
2 subdivision apply. The director of the department of economic  
3 development shall publish such adjusted amount.

4 3. For all applications for tax credits approved on or  
5 after January 1, 2010, no more than two hundred fifty thousand  
6 dollars in tax credits may be issued for eligible costs and  
7 expenses incurred in the rehabilitation of an eligible property  
8 which is a nonincome producing single-family, owner-occupied  
9 residential property and is either a certified historic structure  
10 or a structure in a certified historic district.

11 4. The limitations on tax credit authorization provided  
12 under the provisions of [subsections] subsection 2 [and 3] of  
13 this section shall not apply to:

14 (1) Any application submitted by a taxpayer, which has  
15 received approval from the department prior to [January 1, 2010]  
16 October 1, 2018; or

17 (2) Any taxpayer applying for tax credits, provided under  
18 this section, which, on or before [January 1, 2010] October 1,  
19 2018, has filed an application with the department evidencing  
20 that such taxpayer:

21 (a) Has incurred costs and expenses for an eligible  
22 property which exceed the lesser of five percent of the total  
23 project costs or one million dollars and received an approved  
24 Part I from the Secretary of the United States Department of  
25 Interior; or

26 (b) Has received certification, by the state historic  
27 preservation officer, that the rehabilitation plan meets the  
28 standards consistent with the standards of the Secretary of the

1 United States Department of the Interior, and the rehabilitation  
2 costs and expenses associated with such rehabilitation shall  
3 exceed fifty percent of the total basis in the property.

4 253.559. 1. To obtain approval for tax credits allowed  
5 under sections 253.545 to 253.559, a taxpayer shall submit an  
6 application for tax credits to the department of economic  
7 development. Each application for approval, including any  
8 applications received for supplemental allocations of tax credits  
9 as provided under subsection 8 of this section, shall be  
10 prioritized for review and approval, in the order of the date on  
11 which the application was postmarked, with the oldest postmarked  
12 date receiving priority. Applications postmarked on the same day  
13 shall go through a lottery process to determine the order in  
14 which such applications shall be reviewed.

15 2. Each application shall be reviewed by the department of  
16 economic development for approval. In order to receive approval,  
17 an application, other than applications submitted under the  
18 provisions of subsection ~~[8]~~ 10 of this section, shall include:

19 (1) Proof of ownership or site control. Proof of ownership  
20 shall include evidence that the taxpayer is the fee simple owner  
21 of the eligible property, such as a warranty deed or a closing  
22 statement. Proof of site control may be evidenced by a leasehold  
23 interest or an option to acquire such an interest. If the  
24 taxpayer is in the process of acquiring fee simple ownership,  
25 proof of site control shall include an executed sales contract or  
26 an executed option to purchase the eligible property;

27 (2) Floor plans of the existing structure, architectural  
28 plans, and, where applicable, plans of the proposed alterations

1 to the structure, as well as proposed additions;

2 (3) The estimated cost of rehabilitation, the anticipated  
3 total costs of the project, the actual basis of the property, as  
4 shown by proof of actual acquisition costs, the anticipated total  
5 labor costs, the estimated project start date, and the estimated  
6 project completion date;

7 (4) Proof that the property is an eligible property and a  
8 certified historic structure or a structure in a certified  
9 historic district; [and]

10 (5) A copy of all land use and building approvals  
11 reasonably necessary for the commencement of the project; and

12 (6) Any other information which the department of economic  
13 development may reasonably require to review the project for  
14 approval.

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16 Only the property for which a property address is provided in the  
17 application shall be reviewed for approval. Once selected for  
18 review, a taxpayer shall not be permitted to request the review  
19 of another property for approval in the place of the property  
20 contained in such application. Any disapproved application shall  
21 be removed from the review process. If an application is removed  
22 from the review process, the department of economic development  
23 shall notify the taxpayer in writing of the decision to remove  
24 such application. Disapproved applications shall lose priority  
25 in the review process. A disapproved application, which is  
26 removed from the review process, may be resubmitted, but shall be  
27 deemed to be a new submission for purposes of the priority  
28 procedures described in this section.

1           3. (1) In evaluating an application for tax credits  
2 submitted under this section, the department of economic  
3 development shall also consider:

4           (a) The amount of projected net fiscal benefit of the  
5 project to the state and local municipality, and the period in  
6 which the state and municipality would realize such net fiscal  
7 benefit;

8           (b) The overall size and quality of the proposed project,  
9 including the estimated number of new jobs to be created by the  
10 project, the potential multiplier effect of the project, and  
11 similar factors;

12           (c) The level of economic distress in the area; and

13           (d) Input from the local elected officials in the local  
14 municipality in which the proposed project is located as to the  
15 importance of the proposed project to the municipality. For any  
16 proposed project in any city not within a county, input from  
17 local elected officials shall include, but shall not be limited  
18 to, the president of the board of aldermen;

19           (2) The provisions of this subsection shall not apply to  
20 applications for projects to receive less than two hundred  
21 seventy-five thousand dollars in tax credits.

22           4. If the department of economic development deems the  
23 application sufficient, the taxpayer shall be notified in writing  
24 of the approval for an amount of tax credits equal to the amount  
25 provided under section 253.550 less any amount of tax credits  
26 previously approved. Such approvals shall be granted to  
27 applications in the order of priority established under this  
28 section and shall require full compliance thereafter with all



1 other requirements of law as a condition to any claim for such  
2 credits. If the department of economic development disapproves  
3 an application, the taxpayer shall be notified in writing of the  
4 reasons for such disapproval. A disapproved application may be  
5 resubmitted.

6 [4.] 5. Following approval of an application, the identity  
7 of the taxpayer contained in such application shall not be  
8 modified except:

9 (1) The taxpayer may add partners, members, or shareholders  
10 as part of the ownership structure, so long as the principal  
11 remains the same, provided however, that subsequent to the  
12 commencement of renovation and the expenditure of at least ten  
13 percent of the proposed rehabilitation budget, removal of the  
14 principal for failure to perform duties and the appointment of a  
15 new principal thereafter shall not constitute a change of the  
16 principal; or

17 (2) Where the ownership of the project is changed due to a  
18 foreclosure, deed in lieu of a foreclosure or voluntary  
19 conveyance, or a transfer in bankruptcy.

20 [5.] 6. In the event that the department of economic  
21 development grants approval for tax credits equal to the total  
22 amount available under subsection 2 of section 253.550, or  
23 sufficient that when totaled with all other approvals, the amount  
24 available under subsection 2 of section 253.550 is exhausted, all  
25 taxpayers with applications then awaiting approval or thereafter  
26 submitted for approval shall be notified by the department of  
27 economic development that no additional approvals shall be  
28 granted during the fiscal year and shall be notified of the

1 priority given to such taxpayer's application then awaiting  
2 approval. Such applications shall be kept on file by the  
3 department of economic development and shall be considered for  
4 approval for tax credits in the order established in this section  
5 in the event that additional credits become available due to the  
6 rescission of approvals or when a new fiscal year's allocation of  
7 credits becomes available for approval.

8 7. All taxpayers with applications receiving approval on or  
9 after July 1, 2019, shall submit within sixty days following the  
10 award of credits evidence of the capacity of the applicant to  
11 finance the costs and expenses for the rehabilitation of the  
12 eligible property in the form of a line of credit or letter of  
13 commitment subject to the lender's termination for a material  
14 adverse change impacting the extension of credit. If the  
15 department of economic development determines that a taxpayer has  
16 failed to comply with the requirements under this subsection,  
17 then the department shall notify the applicant of such failure  
18 and the applicant shall have a thirty day period from the date of  
19 such notice to submit additional evidence to remedy the failure.

20 [6.] 8. All taxpayers with applications receiving approval  
21 on or after the effective date of this act shall commence  
22 rehabilitation within [two years] nine months of the date of  
23 issuance of the letter from the department of economic  
24 development granting the approval for tax credits. "Commencement  
25 of rehabilitation" shall mean that as of the date in which actual  
26 physical work, contemplated by the architectural plans submitted  
27 with the application, has begun, the taxpayer has incurred no  
28 less than ten percent of the estimated costs of rehabilitation

1 provided in the application. Taxpayers with approval of a  
2 project shall submit evidence of compliance with the provisions  
3 of this subsection. If the department of economic development  
4 determines that a taxpayer has failed to comply with the  
5 requirements provided under this section, the approval for the  
6 amount of tax credits for such taxpayer shall be rescinded and  
7 such amount of tax credits shall then be included in the total  
8 amount of tax credits, provided under subsection 2 of section  
9 253.550, from which approvals may be granted. Any taxpayer whose  
10 approval shall be subject to rescission shall be notified of such  
11 from the department of economic development and, upon receipt of  
12 such notice, may submit a new application for the project.

13 [7.] 9. To claim the credit authorized under sections  
14 253.550 to 253.559, a taxpayer with approval shall apply for  
15 final approval and issuance of tax credits from the department of  
16 economic development which, in consultation with the department  
17 of natural resources, shall determine the final amount of  
18 eligible rehabilitation costs and expenses and whether the  
19 completed rehabilitation meets the standards of the Secretary of  
20 the United States Department of the Interior for rehabilitation  
21 as determined by the state historic preservation officer of the  
22 Missouri department of natural resources. For financial  
23 institutions credits authorized pursuant to sections 253.550 to  
24 253.561 shall be deemed to be economic development credits for  
25 purposes of section 148.064. The approval of all applications and  
26 the issuing of certificates of eligible credits to taxpayers  
27 shall be performed by the department of economic development.  
28 The department of economic development shall inform a taxpayer of

1 final approval by letter and shall issue, to the taxpayer, tax  
2 credit certificates. The taxpayer shall attach the certificate  
3 to all Missouri income tax returns on which the credit is  
4 claimed.

5 [8.] 10. Except as expressly provided in this subsection,  
6 tax credit certificates shall be issued in the final year that  
7 costs and expenses of rehabilitation of the project are incurred,  
8 or within the twelve-month period immediately following the  
9 conclusion of such rehabilitation. In the event the amount of  
10 eligible rehabilitation costs and expenses incurred by a taxpayer  
11 would result in the issuance of an amount of tax credits in  
12 excess of the amount provided under such taxpayer's approval  
13 granted under subsection [3] 4 of this section, such taxpayer may  
14 apply to the department for issuance of tax credits in an amount  
15 equal to such excess. Applications for issuance of tax credits  
16 in excess of the amount provided under a taxpayer's application  
17 shall be made on a form prescribed by the department. Such  
18 applications shall be subject to all provisions regarding  
19 priority provided under subsection 1 of this section.

20 [9.] 11. The department of economic development shall  
21 determine, on an annual basis, the overall economic impact to the  
22 state from the rehabilitation of eligible property.

23 620.1900. 1. The department of economic development may  
24 charge a fee to the recipient of any tax credits issued by the  
25 department, in an amount up to two and one-half percent of the  
26 amount of tax credits issued, or for tax credits issued under  
27 sections 253.545 to 253.559 in an amount equal to four percent of  
28 the amount of tax credits issued. The fee shall be paid by the

1 recipient upon the issuance of the tax credits. However, no fee  
2 shall be charged for the tax credits issued under section  
3 135.460, or section 208.770, or under sections 32.100 to 32.125,  
4 if issued for community services, crime prevention, education,  
5 job training, or physical revitalization.

6 2. (1) All fees received by the department of economic  
7 development under this section shall be deposited solely to the  
8 credit of the economic development advancement fund, created  
9 under subsection 3 of this section.

10 (2) Thirty-seven and one-half percent of the revenue  
11 derived from the four percent fee charged on tax credits issued  
12 under sections 253.545 to 253.559 shall be appropriated from the  
13 economic development advancement fund for business recruitment  
14 and marketing.

15 3. There is hereby created in the state treasury the  
16 "Economic Development Advancement Fund", which shall consist of  
17 money collected under this section. The state treasurer shall be  
18 custodian of the fund and shall approve disbursements from the  
19 fund in accordance with sections 30.170 and 30.180. Upon  
20 appropriation, money in the fund shall be used solely for the  
21 administration of this section. Notwithstanding the provisions  
22 of section 33.080 to the contrary, any moneys remaining in the  
23 fund at the end of the biennium shall not revert to the credit of  
24 the general revenue fund. The state treasurer shall invest  
25 moneys in the fund in the same manner as other funds are  
26 invested. Any interest and moneys earned on such investments  
27 shall be credited to the fund.

28 4. Such fund shall consist of any fees charged under

1 subsection 1 of this section, any gifts, contributions, grants,  
2 or bequests received from federal, private, or other sources,  
3 fees or administrative charges from private activity bond  
4 allocations, moneys transferred or paid to the department in  
5 return for goods or services provided by the department, and any  
6 appropriations to the fund.

7 5. At least fifty percent of the fees and other moneys  
8 deposited in the fund shall be appropriated for marketing,  
9 technical assistance, and training, contracts for specialized  
10 economic development services, and new initiatives and pilot  
11 programming to address economic trends. The remainder may be  
12 appropriated toward the costs of staffing and operating expenses  
13 for the program activities of the department of economic  
14 development, and for accountability functions.

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