

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1015

99TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, April 30, 2018, with recommendation that the Senate Committee Substitute do pass.

6535S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 135.800, RSMo, and to enact in lieu thereof two new sections relating to tax credits for contributions to certain benevolent organizations.

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

Section A. Section 135.800, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.621 and 135.800, to read as follows:

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

(1) "Contribution", a donation of cash, stock, bonds, other marketable securities, or real property;

(2) "Department", the department of social services;

(3) "Diaper bank", a nonprofit entity located in this state established and operating primarily for the purpose of collecting or purchasing disposable diapers or other hygiene products for infants, children, or incontinent adults and that regularly distributes such diapers or other hygiene products through two or more schools, health care facilities, governmental agencies, or other nonprofit entities for eventual distribution to individuals free of charge;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or otherwise due under chapter 148 or 153;

(5) "Taxpayer", a person, firm, partner in a firm, corporation, or shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed under chapter 143; an

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

18 insurance company paying an annual tax on its gross premium receipts
19 in this state; any other financial institution paying taxes to the state of
20 Missouri or any political subdivision of this state under chapter 148; an
21 express company that pays an annual tax on its gross receipts in this
22 state under chapter 153; an individual subject to the state income tax
23 under chapter 143; or any charitable organization that is exempt from
24 federal income tax and whose Missouri unrelated business taxable
25 income, if any, would be subject to the state income tax imposed under
26 chapter 143.

27 2. For all fiscal years beginning on or after July 1, 2019, a
28 taxpayer shall be allowed to claim a tax credit against the taxpayer's
29 state tax liability in an amount equal to fifty percent of the amount of
30 such taxpayer's contributions to a diaper bank.

31 3. The amount of the tax credit claimed shall not exceed the
32 amount of the taxpayer's state tax liability for the tax year for which
33 the credit is claimed, and such taxpayer shall not be allowed to claim
34 a tax credit in excess of fifty thousand dollars per tax year. However,
35 any tax credit that cannot be claimed in the tax year the contribution
36 was made may be carried over only to the next subsequent tax year. No
37 tax credit issued under this section shall be assigned, transferred, or
38 sold.

39 4. Except for any excess credit that is carried over under
40 subsection 3 of this section, no taxpayer shall be allowed to claim a tax
41 credit unless the taxpayer contributes at least one hundred dollars to
42 one or more diaper banks during the tax year for which the credit is
43 claimed.

44 5. The department shall determine, at least annually, which
45 entities in this state qualify as diaper banks. The department may
46 require of an entity seeking to be classified as a diaper bank any
47 information which is reasonably necessary to make such a
48 determination. The department shall classify an entity as a diaper
49 bank if such entity satisfies the definition under subsection 1 of this
50 section.

51 6. The department shall establish a procedure by which a
52 taxpayer can determine if an entity has been classified as a diaper
53 bank.

54 7. Diaper banks may decline a contribution from a taxpayer.

55 8. The cumulative amount of tax credits that may be claimed by
56 all the taxpayers contributing to diaper banks in any one fiscal year
57 shall not exceed five hundred thousand dollars. Tax credits shall be
58 issued in the order contributions are received. If the amount of tax
59 credits redeemed in a tax year is less than five hundred thousand
60 dollars, the difference shall be added to the cumulative limit created
61 under this subsection for the next fiscal year and carried over to
62 subsequent fiscal years until claimed.

63 9. The department shall establish a procedure by which, from the
64 beginning of the fiscal year until some point in time later in the fiscal
65 year to be determined by the department, the cumulative amount of tax
66 credits are equally apportioned among all entities classified as diaper
67 banks. If a diaper bank fails to use all, or some percentage to be
68 determined by the department, of its apportioned tax credits during
69 this predetermined period of time, the department may reapportion
70 such unused tax credits to diaper banks that have used all, or some
71 percentage to be determined by the department, of their apportioned
72 tax credits during this predetermined period of time. The department
73 may establish multiple periods each fiscal year and reapportion
74 accordingly. To the maximum extent possible, the department shall
75 establish the procedure described under this subsection in such a
76 manner as to ensure that taxpayers can claim as many of the tax
77 credits as possible, up to the cumulative limit created under subsection
78 8 of this section.

79 10. Each diaper bank shall provide information to the
80 department concerning the identity of each taxpayer making a
81 contribution and the amount of the contribution. The department shall
82 provide the information to the department of revenue. The department
83 shall be subject to the confidentiality and penalty provisions of section
84 32.057 relating to the disclosure of tax information.

85 11. Under section 23.253 of the Missouri sunset act:

86 (1) The provisions of the program authorized under this section
87 shall automatically sunset on December thirty-first six years after the
88 effective date of this section unless reauthorized by an act of the
89 general assembly;

90 (2) If such program is reauthorized, the program authorized
91 under this section shall automatically sunset on December thirty-first

92 six years after the effective date of the reauthorization of this section;
93 (3) This section shall terminate on September first of the
94 calendar year immediately following the calendar year in which the
95 program authorized under this section is sunset; and

96 (4) The provisions of this subsection shall not be construed to
97 limit or in any way impair the department's ability to issue tax credits
98 authorized on or before the date the program authorized under this
99 section expires or a taxpayer's ability to redeem such tax credits.

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known
2 and may be cited as the "Tax Credit Accountability Act of 2004".

3 2. As used in sections 135.800 to 135.830, the following terms mean:

4 (1) "Administering agency", the state agency or department charged with
5 administering a particular tax credit program, as set forth by the program's
6 enacting statute; where no department or agency is set forth, the department of
7 revenue;

8 (2) "Agricultural tax credits", the agricultural product utilization
9 contributor tax credit created pursuant to section 348.430, the new generation
10 cooperative incentive tax credit created pursuant to section 348.432, the family
11 farm breeding livestock loan tax credit created under section 348.505, the
12 qualified beef tax credit created under section 135.679, and the wine and grape
13 production tax credit created pursuant to section 135.700;

14 (3) "All tax credit programs", or "any tax credit program", the tax credit
15 programs included in the definitions of agricultural tax credits, business
16 recruitment tax credits, community development tax credits, domestic and social
17 tax credits, entrepreneurial tax credits, environmental tax credits, financial and
18 insurance tax credits, housing tax credits, redevelopment tax credits, and training
19 and educational tax credits;

20 (4) "Business recruitment tax credits", the business facility tax credit
21 created pursuant to sections 135.110 to 135.150 and section 135.258, the
22 enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the
23 business use incentives for large-scale development programs created pursuant
24 to sections 100.700 to 100.850, the development tax credits created pursuant to
25 sections 32.100 to 32.125, the rebuilding communities tax credit created pursuant
26 to section 135.535, the film production tax credit created pursuant to section
27 135.750, the enhanced enterprise zone created pursuant to sections 135.950 to
28 135.970, and the Missouri quality jobs program created pursuant to sections

29 620.1875 to 620.1900;

30 (5) "Community development tax credits", the neighborhood assistance tax
31 credit created pursuant to sections 32.100 to 32.125, the family development
32 account tax credit created pursuant to sections 208.750 to 208.775, the dry fire
33 hydrant tax credit created pursuant to section 320.093, and the transportation
34 development tax credit created pursuant to section 135.545;

35 (6) "Domestic and social tax credits", the youth opportunities tax credit
36 created pursuant to section 135.460 and sections 620.1100 to 620.1103, the
37 shelter for victims of domestic violence created pursuant to section 135.550, the
38 senior citizen or disabled person property tax credit created pursuant to sections
39 135.010 to 135.035, the special needs adoption tax credit created pursuant to
40 sections 135.325 to 135.339, the champion for children tax credit created
41 pursuant to section 135.341, the maternity home tax credit created pursuant to
42 section 135.600, the surviving spouse tax credit created pursuant to section
43 135.090, the residential treatment agency tax credit created pursuant to section
44 135.1150, the pregnancy resource center tax credit created pursuant to section
45 135.630, the food pantry tax credit created pursuant to section 135.647, the
46 health care access fund tax credit created pursuant to section 135.575, the
47 residential dwelling access tax credit created pursuant to section 135.562, the
48 developmental disability care provider tax credit created under section 135.1180,
49 [and] the shared care tax credit created pursuant to section 192.2015, **and the**
50 **diaper bank tax credit created pursuant to section 135.621;**

51 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant
52 to sections 135.400 to 135.429, the certified capital company tax credit created
53 pursuant to sections 135.500 to 135.529, the seed capital tax credit created
54 pursuant to sections 348.300 to 348.318, the new enterprise creation tax credit
55 created pursuant to sections 620.635 to 620.653, the research tax credit created
56 pursuant to section 620.1039, the small business incubator tax credit created
57 pursuant to section 620.495, the guarantee fee tax credit created pursuant to
58 section 135.766, and the new generation cooperative tax credit created pursuant
59 to sections 32.105 to 32.125;

60 (8) "Environmental tax credits", the charcoal producer tax credit created
61 pursuant to section 135.313, the wood energy tax credit created pursuant to
62 sections 135.300 to 135.311, and the alternative fuel stations tax credit created
63 pursuant to section 135.710;

64 (9) "Financial and insurance tax credits", the bank franchise tax credit

65 created pursuant to section 148.030, the bank tax credit for S corporations
66 created pursuant to section 143.471, the exam fee tax credit created pursuant to
67 section 148.400, the health insurance pool tax credit created pursuant to section
68 376.975, the life and health insurance guaranty tax credit created pursuant to
69 section 376.745, the property and casualty guaranty tax credit created pursuant
70 to section 375.774, and the self-employed health insurance tax credit created
71 pursuant to section 143.119;

72 (10) "Housing tax credits", the neighborhood preservation tax credit
73 created pursuant to sections 135.475 to 135.487, the low-income housing tax
74 credit created pursuant to sections 135.350 to 135.363, and the affordable housing
75 tax credit created pursuant to sections 32.105 to 32.125;

76 (11) "Recipient", the individual or entity who is the original applicant for
77 and who receives proceeds from a tax credit program directly from the
78 administering agency, the person or entity responsible for the reporting
79 requirements established in section 135.805;

80 (12) "Redevelopment tax credits", the historic preservation tax credit
81 created pursuant to sections 253.545 to 253.559, the brownfield redevelopment
82 program tax credit created pursuant to sections 447.700 to 447.718, the
83 community development corporations tax credit created pursuant to sections
84 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection
85 6 of section 100.286, the bond guarantee tax credit created pursuant to section
86 100.297, the disabled access tax credit created pursuant to section 135.490, the
87 new markets tax credit created pursuant to section 135.680, and the distressed
88 areas land assemblage tax credit created pursuant to section 99.1205;

89 (13) "Training and educational tax credits", the Missouri works new jobs
90 tax credit and Missouri works retained jobs credit created pursuant to sections
91 620.800 to 620.809.

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