

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 590
99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

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ADRIANE D. CROUSE, Secretary.

4244S.12P

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, with an emergency clause.

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

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2 repealed and four new sections enacted in lieu thereof, to be known as sections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

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

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

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

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

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

11 (5) "Principal", a managing partner, general partner, or president of a
12 taxpayer;

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

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

17 (7) **"Qualified census tract", a census tract with a poverty rate of**
18 **thirty percent or higher as determined by a map and listing of census**
19 **tracts which shall be published by the department of economic**
20 **development and updated on a five-year cycle, and which map and**
21 **listing shall depict census tracts with thirty percent poverty rate or**
22 **higher, grouped by census tracts with thirty percent to forty-two**
23 **percent poverty, and forty-two percent to eighty-one percent poverty**
24 **as determined by the most current five-year figures published by the**
25 **American Community Survey conducted by the United States Census**
26 **Bureau;**

27 (8) **"Structure in a certified historic district", a structure located in**
28 **Missouri which is certified by the department of natural resources as contributing**
29 **to the historic significance of a certified historic district listed on the National**
30 **Register of Historic Places, or a local district that has been certified by the**
31 **United States Department of the Interior;**

32 [(7)] (9) **"Taxpayer", any person, firm, partnership, trust, estate, limited**
33 **liability company, or corporation.**

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

16 2. **(1)** During the period beginning on January 1, 2010, but ending on or
17 after June 30, 2010, the department of economic development shall not approve
18 applications for tax credits under the provisions of subsections [3] 4 and [8] 9 of
19 section 253.559 which, in the aggregate, exceed seventy million dollars, increased
20 by any amount of tax credits for which approval shall be rescinded under the
21 provisions of section 253.559. For each fiscal year beginning on or after July 1,
22 2010, **but ending before June 30, 2018**, the department of economic
23 development shall not approve applications for tax credits under the provisions
24 of subsections [3] 4 and [8] 9 of section 253.559 which, in the aggregate, exceed
25 one hundred forty million dollars, increased by any amount of tax credits for
26 which approval shall be rescinded under the provisions of section 253.559. **For**
27 **each fiscal year beginning on or after July 1, 2018, the department of**
28 **economic development shall not approve applications for tax credits**
29 **under the provisions of subsections 4 and 9 of section 253.559 which, in**
30 **the aggregate, exceed ninety million dollars, increased by any amount**
31 **of tax credits for which approval shall be rescinded under the**
32 **provisions of section 253.559.** The limitations provided under this subsection
33 shall not apply to applications approved under the provisions of subsection [3] 4
34 of section 253.559 for projects to receive less than two hundred seventy-five
35 thousand dollars in tax credits.

36 **(2)** For each fiscal year beginning on or after July 1, 2018, the
37 department may authorize an amount up to, but not to exceed, an
38 additional thirty million dollars in tax credits issued under subsections
39 4 and 9 of section 253.559, provided that such tax credits are authorized
40 solely for projects located in a qualified census tract.

41 **(3)** For each fiscal year beginning on or after July 1, 2018, if the
42 maximum amount of tax credits allowed in any fiscal year as provided
43 under subdivisions (1) and (2) of this subsection is authorized, the
44 maximum amount of tax credits allowed under subdivision (1) of this
45 subsection shall be adjusted by the percentage increase in the
46 Consumer Price Index for All Urban Consumers, or its successor index,
47 as such index is defined and officially reported by the United States
48 Department of Labor, or its successor agency. Only one such
49 adjustment shall be made for each instance in which the provisions of
50 this subdivision apply. The director of the department of economic
51 development shall publish such adjusted amount.

52 3. For all applications for tax credits approved on or after January 1,
53 2010, no more than two hundred fifty thousand dollars in tax credits may be
54 issued for eligible costs and expenses incurred in the rehabilitation of an eligible
55 property which is a nonincome producing single-family, owner-occupied
56 residential property and is either a certified historic structure or a structure in
57 a certified historic district.

58 4. The limitations on tax credit authorization provided under the
59 provisions of subsections 2 and 3 of this section shall not apply to:

60 (1) Any application submitted by a taxpayer, which has received approval
61 from the department prior to January 1, 2010; or

62 (2) Any taxpayer applying for tax credits, provided under this section,
63 which, on or before January 1, 2010, has filed an application with the department
64 evidencing that such taxpayer:

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

69 (b) Has received certification, by the state historic preservation officer,
70 that the rehabilitation plan meets the standards consistent with the standards
71 of the Secretary of the United States Department of the Interior, and the
72 rehabilitation costs and expenses associated with such rehabilitation shall exceed
73 fifty percent of the total basis in the property.

253.559. 1. To obtain approval for tax credits allowed under sections
2 253.545 to 253.559, a taxpayer shall submit an application for tax credits to the
3 department of economic development. Each application for approval, including
4 any applications received for supplemental allocations of tax credits as provided
5 under subsection 8 of this section, shall be prioritized for review and approval,
6 in the order of the date on which the application was postmarked, with the oldest
7 postmarked date receiving priority. Applications postmarked on the same day
8 shall go through a lottery process to determine the order in which such
9 applications shall be reviewed.

10 2. Each application shall be reviewed by the department of economic
11 development for approval. In order to receive approval, an application, other
12 than applications submitted under the provisions of subsection [8] 9 of this
13 section, shall include:

14 (1) Proof of ownership or site control. Proof of ownership shall include

15 evidence that the taxpayer is the fee simple owner of the eligible property, such
16 as a warranty deed or a closing statement. Proof of site control may be evidenced
17 by a leasehold interest or an option to acquire such an interest. If the taxpayer
18 is in the process of acquiring fee simple ownership, proof of site control shall
19 include an executed sales contract or an executed option to purchase the eligible
20 property;

21 (2) Floor plans of the existing structure, architectural plans, and, where
22 applicable, plans of the proposed alterations to the structure, as well as proposed
23 additions;

24 (3) The estimated cost of rehabilitation, the anticipated total costs of the
25 project, the actual basis of the property, as shown by proof of actual acquisition
26 costs, the anticipated total labor costs, the estimated project start date, and the
27 estimated project completion date;

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

30 (5) **Proof of committed and unconditional financing. For**
31 **purposes of this subdivision, the term "unconditional financing" shall**
32 **not include conditions upon financing which are commonly imposed**
33 **under generally accepted underwriting principals;**

34 (6) **A copy of all land use and building approvals reasonably**
35 **necessary for the commencement of the project; and**

36 (7) Any other information which the department of economic development
37 may reasonably require to review the project for approval.

38 Only the property for which a property address is provided in the application
39 shall be reviewed for approval. Once selected for review, a taxpayer shall not be
40 permitted to request the review of another property for approval in the place of
41 the property contained in such application. Any disapproved application shall be
42 removed from the review process. If an application is removed from the review
43 process, the department of economic development shall notify the taxpayer in
44 writing of the decision to remove such application. Disapproved applications
45 shall lose priority in the review process. A disapproved application, which is
46 removed from the review process, may be resubmitted, but shall be deemed to be
47 a new submission for purposes of the priority procedures described in this section.

48 **3. In evaluating an application for tax credits submitted under**
49 **this section, the department of economic development shall also**
50 **consider:**

51 **(1) The amount of projected net fiscal benefit of the project to**
52 **the state and local municipality, and the period in which the state and**
53 **municipality would realize such net fiscal benefit;**

54 **(2) The overall size and quality of the proposed project,**
55 **including the estimated number of new jobs to be created by the**
56 **project, the potential multiplier effect of the project, and similar**
57 **factors;**

58 **(3) The level of economic distress in the area; and**

59 **(4) Input from the local municipality in which the proposed**
60 **project is located as to the importance of the proposed project to the**
61 **municipality.**

62 4. If the department of economic development deems the application
63 sufficient, the taxpayer shall be notified in writing of the approval for an amount
64 of tax credits equal to the amount provided under section 253.550 less any
65 amount of tax credits previously approved. Such approvals shall be granted to
66 applications in the order of priority established under this section and shall
67 require full compliance thereafter with all other requirements of law as a
68 condition to any claim for such credits. **If the department of economic**
69 **development disapproves an application, the taxpayer shall be notified**
70 **in writing of the reasons for such disapproval. A disapproved**
71 **application may be resubmitted.**

72 [4.] 5. Following approval of an application, the identity of the taxpayer
73 contained in such application shall not be modified except:

74 (1) The taxpayer may add partners, members, or shareholders as part of
75 the ownership structure, so long as the principal remains the same, provided
76 however, that subsequent to the commencement of renovation and the
77 expenditure of at least ten percent of the proposed rehabilitation budget, removal
78 of the principal for failure to perform duties and the appointment of a new
79 principal thereafter shall not constitute a change of the principal; or

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

82 [5.] 6. In the event that the department of economic development grants
83 approval for tax credits equal to the total amount available under subsection 2
84 of section 253.550, or sufficient that when totaled with all other approvals, the
85 amount available under subsection 2 of section 253.550 is exhausted, all
86 taxpayers with applications then awaiting approval or thereafter submitted for

87 approval shall be notified by the department of economic development that no
88 additional approvals shall be granted during the fiscal year and shall be notified
89 of the priority given to such taxpayer's application then awaiting approval. Such
90 applications shall be kept on file by the department of economic development and
91 shall be considered for approval for tax credits in the order established in this
92 section in the event that additional credits become available due to the rescission
93 of approvals or when a new fiscal year's allocation of credits becomes available
94 for approval.

95 [6.] 7. All taxpayers with applications receiving approval on or after the
96 effective date of this act shall commence rehabilitation within [two years] **nine**
97 **months** of the date of issuance of the letter from the department of economic
98 development granting the approval for tax credits. "Commencement of
99 rehabilitation" shall mean that as of the date in which actual physical work,
100 contemplated by the architectural plans submitted with the application, has
101 begun, the taxpayer has incurred no less than ten percent of the estimated costs
102 of rehabilitation provided in the application. Taxpayers with approval of a
103 project shall submit evidence of compliance with the provisions of this subsection.
104 If the department of economic development determines that a taxpayer has failed
105 to comply with the requirements provided under this section, the approval for the
106 amount of tax credits for such taxpayer shall be rescinded and such amount of tax
107 credits shall then be included in the total amount of tax credits, provided under
108 subsection 2 of section 253.550, from which approvals may be granted. Any
109 taxpayer whose approval shall be subject to rescission shall be notified of such
110 from the department of economic development and, upon receipt of such notice,
111 may submit a new application for the project.

112 [7.] 8. To claim the credit authorized under sections 253.550 to 253.559,
113 a taxpayer with approval shall apply for final approval and issuance of tax credits
114 from the department of economic development which, in consultation with the
115 department of natural resources, shall determine the final amount of eligible
116 rehabilitation costs and expenses and whether the completed rehabilitation meets
117 the standards of the Secretary of the United States Department of the Interior
118 for rehabilitation as determined by the state historic preservation officer of the
119 Missouri department of natural resources. For financial institutions credits
120 authorized pursuant to sections 253.550 to 253.561 shall be deemed to be
121 economic development credits for purposes of section 148.064. The approval of all
122 applications and the issuing of certificates of eligible credits to taxpayers shall

123 be performed by the department of economic development. The department of
124 economic development shall inform a taxpayer of final approval by letter and
125 shall issue, to the taxpayer, tax credit certificates. The taxpayer shall attach the
126 certificate to all Missouri income tax returns on which the credit is claimed.

127 [8.] 9. Except as expressly provided in this subsection, tax credit
128 certificates shall be issued in the final year that costs and expenses of
129 rehabilitation of the project are incurred, or within the twelve-month period
130 immediately following the conclusion of such rehabilitation. In the event the
131 amount of eligible rehabilitation costs and expenses incurred by a taxpayer would
132 result in the issuance of an amount of tax credits in excess of the amount
133 provided under such taxpayer's approval granted under subsection [3] 4 of this
134 section, such taxpayer may apply to the department for issuance of tax credits in
135 an amount equal to such excess. Applications for issuance of tax credits in excess
136 of the amount provided under a taxpayer's application shall be made on a form
137 prescribed by the department. Such applications shall be subject to all provisions
138 regarding priority provided under subsection 1 of this section.

139 [9.] 10. The department of economic development shall determine, on an
140 annual basis, the overall economic impact to the state from the rehabilitation of
141 eligible property.

620.1900. 1. The department of economic development may charge a fee
2 to the recipient of any tax credits issued by the department, in an amount up to
3 two and one-half percent of the amount of tax credits issued, **or for tax credits**
4 **issued under sections 253.545 to 253.559 in an amount equal to four**
5 **percent of the amount of tax credits issued.** The fee shall be paid by the
6 recipient upon the issuance of the tax credits. However, no fee shall be charged
7 for the tax credits issued under section 135.460, or section 208.770, or under
8 sections 32.100 to 32.125, if issued for community services, crime prevention,
9 education, job training, or physical revitalization.

10 2. (1) All fees received by the department of economic development under
11 this section shall be deposited solely to the credit of the economic development
12 advancement fund, created under subsection 3 of this section.

13 (2) **Thirty-seven and one-half percent of the revenue derived**
14 **from the four percent fee charged on tax credits issued under sections**
15 **253.545 to 253.559 shall be appropriated from the economic**
16 **development advancement fund for business recruitment and**
17 **marketing.**

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

28 4. Such fund shall consist of any fees charged under subsection 1 of this
29 section, any gifts, contributions, grants, or bequests received from federal,
30 private, or other sources, fees or administrative charges from private activity
31 bond allocations, moneys transferred or paid to the department in return for
32 goods or services provided by the department, and any appropriations to the fund.

33 5. At least fifty percent of the fees and other moneys deposited in the fund
34 shall be appropriated for marketing, technical assistance, and training, contracts
35 for specialized economic development services, and new initiatives and pilot
36 programming to address economic trends. The remainder may be appropriated
37 toward the costs of staffing and operating expenses for the program activities of
38 the department of economic development, and for accountability functions.

Section B. Because of the need to provide for the preservation of historic
2 buildings, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and
6 approval.

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