

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 28
100TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, February 7, 2019, with recommendation that the Senate Committee Substitute do pass.

0200S.06C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 135.350 and 135.352, RSMo, and to enact in lieu thereof two new sections relating to low-income housing tax credits.

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

Section A. Sections 135.350 and 135.352, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 135.350 and 135.352, to
3 read as follows:

135.350. As used in [this section] **sections 135.350 to 135.363**, unless
2 the context clearly requires otherwise, the following words and phrases shall
3 mean:

4 (1) "Commission", the Missouri housing development commission, or its
5 successor agency;

6 (2) "Director", director of the department of revenue;

7 (3) "Eligibility statement", a statement authorized and issued by the
8 commission certifying that a given project qualifies for the Missouri low-income
9 housing tax credit. The commission shall promulgate rules establishing criteria
10 upon which the eligibility statements will be issued. The eligibility statement
11 shall specify the amount of the Missouri low-income housing tax credit
12 allowed. The commission shall only authorize the tax credits to qualified projects
13 which begin after June 18, 1991;

14 (4) **"Federal housing credit allocation", the amount of the federal**
15 **low-income housing tax credits allocated to the state under 26 U.S.C.**
16 **Section 42, as amended;**

17 (5) "Federal low-income housing tax credit", the federal tax credit as

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

18 provided in section 42 of the 1986 Internal Revenue Code, as amended;

19 [(5)] **(6)** "Low-income project", a housing project which has restricted
20 rents that do not exceed thirty percent of median income for at least forty percent
21 of its units occupied by persons of families having incomes of sixty percent or less
22 of the median income, or at least twenty percent of the units occupied by persons
23 or families having incomes of fifty percent or less of the median income;

24 [(6)] **(7)** "Median income", those incomes which are determined by the
25 federal Department of Housing and Urban Development guidelines and adjusted
26 for family size;

27 [(7)] **(8)** "Qualified Missouri project", a qualified low-income building as
28 that term is defined in section 42 of the 1986 Internal Revenue Code, as
29 amended, which is located in Missouri;

30 **(9) "State authorization limit", seventy percent of the federal**
31 **housing credit allocation, increased by any amount of state tax credits**
32 **that are recaptured under the provisions of section 135.355. "State**
33 **authorization limit" shall not include tax credits authorized under**
34 **subsection 3 of section 135.352;**

35 [(8)] **(10)** "Taxpayer", person, firm or corporation subject to the state
36 income tax imposed by the provisions of chapter 143 (except withholding imposed
37 by sections 143.191 to 143.265) or a corporation subject to the annual corporation
38 franchise tax imposed by the provisions of chapter 147, or an insurance company
39 paying an annual tax on its gross premium receipts in this state, or other
40 financial institution paying taxes to the state of Missouri or any political
41 subdivision of this state under the provisions of chapter 148, or an express
42 company which pays an annual tax on its gross receipts in this state.

135.352. 1. A taxpayer owning an interest in a qualified Missouri project
2 shall, subject to the limitations provided under the provisions of [subsection]
3 **subsections 2 and 3** of this section, be allowed a state tax credit, whether or not
4 allowed a federal tax credit, to be termed the Missouri low-income housing tax
5 credit, if the commission issues an eligibility statement for that project.

6 2. For qualified Missouri projects placed in service after January 1, 1997,
7 the Missouri low-income housing tax credit available to a project shall be such
8 amount as the commission shall determine is necessary to ensure the feasibility
9 of the project, up to an amount equal to the federal low-income housing tax credit
10 for a qualified Missouri project, for a federal tax period, and such amount shall
11 be subtracted from the amount of state tax otherwise due for the same tax

12 period. **The aggregate amount of tax credits authorized in a fiscal year**
13 **under sections 135.350 to 135.363 shall not exceed the state**
14 **authorization limit.**

15 3. No more than [six] **four** million dollars in tax credits shall be
16 authorized each fiscal year for projects financed through tax-exempt bond
17 issuance.

18 4. The Missouri low-income housing tax credit shall be taken against the
19 taxes and in the order specified pursuant to section 32.115. The credit authorized
20 by this section shall not be refundable. Any amount of credit that exceeds the tax
21 due for a taxpayer's taxable year may be carried back to any of the taxpayer's
22 three prior taxable years or carried forward to any of the taxpayer's five
23 subsequent taxable years.

24 5. All or any portion of Missouri tax credits issued in accordance with the
25 provisions of sections 135.350 to 135.362 may be allocated to parties who are
26 eligible pursuant to the provisions of subsection 1 of this section. Beginning
27 January 1, 1995, for qualified projects which began on or after January 1, 1994,
28 an owner of a qualified Missouri project shall certify to the director the amount
29 of credit allocated to each taxpayer. The owner of the project shall provide to the
30 director appropriate information so that the low-income housing tax credit can be
31 properly allocated.

32 6. In the event that recapture of Missouri low-income housing tax credits
33 is required pursuant to subsection 2 of section 135.355, any statement submitted
34 to the director as provided in this section shall include the proportion of the state
35 credit required to be recaptured, the identity of each taxpayer subject to the
36 recapture and the amount of credit previously allocated to such taxpayer.

37 7. The director of the department may promulgate rules and regulations
38 necessary to administer the provisions of this section. No rule or portion of a rule
39 promulgated pursuant to the authority of this section shall become effective
40 unless it has been promulgated pursuant to the provisions of section 536.024.

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