

SECOND REGULAR SESSION

SENATE BILL NO. 819

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed January 6, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4201S.03I

AN ACT

To repeal sections 253.545, 253.550, 253.557, 253.559, and 620.1900, RSMo, and to enact in lieu thereof six new sections relating to facilities of historic significance.

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

Section A. Sections 253.545, 253.550, 253.557, 253.559, and 620.1900, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 253.544, 253.545, 253.550, 253.557, 253.559, and 620.1900, to read as follows:

253.544. Sections 253.544 to 253.559 shall be known and may be cited as the "Missouri Historic, Heritage, Tourism, and Rural Revitalization Act".

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

(1) **"Applicable percentage":**

(a) **For essential community or heritage facility projects that are historic county courthouses as described under this section, fifty percent or five hundred thousand dollars, whichever is less;**

(b) **For residential projects approved for tax credits under subsection 3 of section 253.550, twenty-five percent or fifty thousand dollars, whichever is less;**

(c) **For projects located in a qualifying county that are not residential projects approved under subsection 3 of section 253.550, thirty-five percent;**

(d) **For projects not located in a qualifying county that are not**

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

14 **residential projects approved under subsection 3 of section 253.550,**
15 **twenty-five percent;**

16 **(2) "Certified historic structure", a property located in Missouri and listed**
17 **individually on the National Register of Historic Places;**

18 **[(2)] (3) "Deed in lieu of foreclosure or voluntary conveyance", a transfer**
19 **of title from a borrower to the lender to satisfy the mortgage debt and avoid**
20 **foreclosure;**

21 **(4) "Department", the department of economic development;**

22 **[(3)] (5) "Eligible property", property located in Missouri and offered or**
23 **used for residential or business purposes;**

24 **(6) "Eligible recipient":**

25 **(a) For essential community or heritage facility projects, any**
26 **taxpayer, including not-for-profit, governmental, or quasi-governmental**
27 **entities incurring expenses in connection with an eligible property;**

28 **(b) For all other projects, any individual taxpayer or for-profit**
29 **entity incurring expenses in connection with an eligible property;**

30 **(7) "Essential community or heritage facility", any structure that:**

31 **(a) Is a historic county courthouse located in a qualifying county;**
32 **or**

33 **(b) a. Is significant in the history, architecture, archeology, or**
34 **culture of this state or its communities, as designated by the governing**
35 **body of the county;**

36 **b. Was originally constructed at least fifty years prior to the date**
37 **of the eligible recipient's application, and which remains or will be**
38 **open for the benefit of the public at large without discrimination as to**
39 **race, color, religion, sex, national origin, disability, or marital or**
40 **familial status; and**

41 **c. Has at least one hundred thousand dollars in estimated**
42 **eligible costs and expenses to be incurred in the rehabilitation of such**
43 **structure, or, in the case of a leased property used to promote or**
44 **educate patrons on the history, architecture, archeology, or culture of**
45 **this state or its communities, as designated by the governing body of**
46 **the county, fifty thousand dollars in estimated eligible costs and**
47 **expenses to be incurred in the rehabilitation of such structure;**

48 **[(4)] (8) "Leasehold interest", a lease in an eligible property for a term**
49 **of not less than thirty years;**

50 **[(5)] (9) "Principal", a managing partner, general partner, or president**

51 of a taxpayer;

52 [(6)] **(10)** "Projected net fiscal benefit", the total net fiscal benefit to the
53 state or municipality, less any state or local benefits offered to the taxpayer for
54 a project, as determined by the department of economic development;

55 [(7)] **(11)** "Qualified census tract", a census tract with a poverty rate of
56 twenty percent or higher as determined by a map and listing of census tracts
57 which shall be published by the department of economic development and
58 updated on a five-year cycle, and which map and listing shall depict census tracts
59 with twenty percent poverty rate or higher, grouped by census tracts with twenty
60 percent to forty-two percent poverty, and forty-two percent to eighty-one percent
61 poverty as determined by the most current five-year figures published by the
62 American Community Survey conducted by the United States Census Bureau;

63 **(12)** "Qualified rehabilitation standards", the Secretary of the
64 Interior's Standards for Rehabilitation, codified as 36 CFR 67, as
65 determined by the state historic preservation office of the Missouri
66 department of natural resources; provided that, with respect to
67 essential community facility or heritage facility projects that are
68 historic county courthouses as described under this section, such
69 standards shall only apply to the structure exterior, including windows,
70 and the structure site;

71 **(13)** "Qualifying county", any county of this state except counties
72 with a charter form of government;

73 [(8)] **(14)** "Structure in a certified historic district", a structure located
74 in Missouri which is certified by the department of natural resources as
75 contributing to the historic significance of a certified historic district listed on the
76 National Register of Historic Places, or a local district that has been certified by
77 the United States Department of the Interior;

78 [(9)] **(15)** "Taxpayer", any person, firm, partnership, trust, estate, limited
79 liability company, or corporation.

253.550. 1. Any taxpayer incurring costs and expenses for the
2 rehabilitation of eligible property, which is [a] **an essential community or**
3 **heritage facility**, certified historic structure or structure in a certified historic
4 district, [may] **shall**, subject to the provisions of this section and section 253.559,
5 receive a credit against the taxes imposed pursuant to chapters 143 and 148,
6 except for sections 143.191 to 143.265, on such taxpayer in an amount equal to
7 [twenty-five percent] **the applicable percentage** of the total costs and expenses

8 of rehabilitation incurred after January 1, 1998, which shall include, but not be
9 limited to, qualified rehabilitation expenditures as defined under section
10 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related
11 regulations thereunder, provided the rehabilitation costs associated with
12 rehabilitation and the expenses exceed fifty percent of the total basis in the
13 property and the rehabilitation meets [standards consistent with] the **qualified**
14 **rehabilitation** standards [of the Secretary of the United States Department of
15 the Interior for rehabilitation as determined by the state historic preservation
16 officer of the Missouri department of natural resources].

17 2. (1) During the period beginning on January 1, 2010, but ending on or
18 after June 30, 2010, the department of economic development shall not approve
19 applications for tax credits under the provisions of subsections 4 and 10 of section
20 253.559 which, in the aggregate, exceed seventy million dollars, increased by any
21 amount of tax credits for which approval shall be rescinded under the provisions
22 of section 253.559. For each fiscal year beginning on or after July 1, 2010, but
23 ending before June 30, 2018, the department of economic development shall not
24 approve applications for tax credits under the provisions of subsections 4 and 10
25 of section 253.559 which, in the aggregate, exceed one hundred forty million
26 dollars, increased by any amount of tax credits for which approval shall be
27 rescinded under the provisions of section 253.559. For each fiscal year beginning
28 on or after July 1, 2018, the department of economic development shall not
29 approve applications for tax credits under the provisions of subsections 4 and 10
30 of section 253.559 **for projects not located in a qualified census tract**
31 which, in the aggregate, exceed ninety million dollars, increased by any amount
32 of tax credits for which approval shall be rescinded under the provisions of
33 section 253.559. The limitations provided under this subsection shall not apply
34 to applications approved under the provisions of subsection 4 of section 253.559
35 for projects to receive less than two hundred seventy-five thousand dollars in tax
36 credits.

37 (2) For each fiscal year beginning on or after July 1, 2018, the department
38 shall authorize an amount up to, but not to exceed, an additional thirty million
39 dollars in tax credits issued under subsections 4 and 10 of section 253.559,
40 provided that such tax credits are authorized solely for projects located in a
41 qualified census tract. **If the maximum amount of tax credits allowed in**
42 **any fiscal year as provided under this subdivision is authorized for**
43 **projects located in a qualified census tract, such projects may be**

44 **authorized for tax credits under the limitation provided under**
45 **subdivision (1) of this subsection, provided the maximum amount of**
46 **such tax credits for projects not located in a qualified census tract has**
47 **not been authorized for such fiscal year.**

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

58 (4) **Of the total amount of tax credits that may be authorized**
59 **under subdivision (1) of this subsection, an amount shall be reserved**
60 **as provided in this subdivision for essential community or heritage**
61 **facility projects that are historic county courthouses as described**
62 **under section 253.545, provided that no qualifying county shall have**
63 **more than two such projects authorized in a fiscal year, and further**
64 **provided that no such project shall receive an authorization for tax**
65 **credits other than from the amount reserved under this subdivision.**

66 (a) **Beginning with the fiscal year beginning on or after July 1,**
67 **2020, and ending on or before June 30, 2021, five million dollars shall**
68 **be reserved under subdivision (1) of this subsection for essential**
69 **community or heritage facility projects that are historic county**
70 **courthouses as described under section 253.545.**

71 (b) **For each fiscal year beginning on or after July 1, 2021, if the**
72 **maximum amount of tax credits reserved under paragraph (a) of this**
73 **subdivision, as adjusted by this paragraph, is authorized in any fiscal**
74 **year, the amount to be reserved under this subdivision shall be**
75 **permanently increased by one million dollars, provided that the amount**
76 **to be reserved under this subdivision shall not exceed ten million**
77 **dollars.**

78 (c) **Any amount of tax credits reserved under this subdivision**
79 **which are not authorized by March thirty-first of a fiscal year shall no**
80 **longer stand reserved and may be authorized for any project under**

81 **sections 253.544 to 253.559. In the event the department receives and**
82 **approves applications in an amount in excess of the available amount**
83 **reserved under this subdivision, such excess approvals shall be subject**
84 **to the procedures set forth in subsection 5 of section 253.559.**

85 3. **(1)** For all applications for tax credits approved on or after January 1,
86 2010, **and on or before June 30, 2020**, no more than two hundred fifty
87 thousand dollars in tax credits may be issued for eligible costs and expenses
88 incurred in the rehabilitation of an eligible property which is a nonincome
89 producing single-family, [owner-occupied] residential property **occupied by the**
90 **taxpayer applicant or any relative within the third degree of**
91 **consanguinity or affinity of such applicant** and is either a certified historic
92 structure or a structure in a certified historic district.

93 **(2)** For all applications for tax credits approved on or after July
94 1, 2020, tax credits in amount equal to the applicable percentage may
95 be issued for eligible costs and expenses incurred in the rehabilitation
96 of an eligible property which is a nonincome producing single-family,
97 residential property **occupied by the taxpayer applicant or any relative**
98 **within the third degree of consanguinity or affinity of such applicant**
99 **and is either a certified historic structure or a structure in a certified**
100 **historic district. For projects not located in a qualifying county, tax**
101 **credits shall not be issued under this subsection unless such project is**
102 **located in a distressed community, as defined under section 135.530.**

103 4. The limitations on tax credit authorization provided under the
104 provisions of subsection 2 of this section shall not apply to:

105 (1) Any application submitted by a taxpayer, which has received approval
106 from the department prior to October 1, 2018; or

107 (2) Any taxpayer applying for tax credits, provided under this section,
108 which, on or before October 1, 2018, has filed an application with the department
109 evidencing that such taxpayer:

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

114 (b) Has received certification, by the state historic preservation officer,
115 that the rehabilitation plan meets the **qualified rehabilitation** standards
116 [consistent with the standards of the Secretary of the United States Department

117 of the Interior,] and the rehabilitation costs and expenses associated with such
118 rehabilitation shall exceed fifty percent of the total basis in the property.

253.557. 1. **For all applications for tax credits approved on or**
2 **after January 1, 2010, and on or before June 30, 2020**, if the amount of
3 such credit exceeds the total tax liability for the year in which the rehabilitated
4 property is placed in service, the amount that exceeds the state tax liability may
5 be carried back to any of the three preceding years and carried forward for credit
6 against the taxes imposed pursuant to chapter 143 and chapter 148, except for
7 sections 143.191 to 143.265 for the succeeding ten years, or until the full credit
8 is used, whichever occurs first. **For all applications for tax credits**
9 **approved on or after July 1, 2020, if the amount of such credit exceeds**
10 **the total tax liability for the year in which the rehabilitated property**
11 **is placed in service, the amount that exceeds the state tax liability may**
12 **be carried back to the immediately preceding tax year and carried**
13 **forward for credit against the taxes imposed under chapters 143 and**
14 **148, except for sections 143.191 to 143.265, for the succeeding five years,**
15 **or until the full credit is used, whichever occurs first.** Not-for-profit
16 entities, including but not limited to corporations organized as not-for-profit
17 corporations pursuant to chapter 355 shall be [ineligible] **eligible** for the tax
18 credits authorized under sections 253.545 [through 253.561] to
19 **253.559**. Taxpayers eligible for such tax credits may transfer, sell or assign the
20 credits. Credits granted to a partnership, a limited liability company taxed as a
21 partnership or multiple owners of property shall be passed through to the
22 partners, members or owners respectively pro rata or pursuant to an executed
23 agreement among the partners, members or owners documenting an alternate
24 distribution method.

25 2. The assignee of the tax credits, hereinafter the assignee for purposes
26 of this subsection, may use acquired credits to offset up to one hundred percent
27 of the tax liabilities otherwise imposed pursuant to chapter 143 and chapter 148,
28 except for sections 143.191 to 143.265. The assignor shall perfect such transfer
29 by notifying the department of economic development in writing within thirty
30 calendar days following the effective date of the transfer and shall provide any
31 information as may be required by the department of economic development to
32 administer and carry out the provisions of this section.

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 10 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 10 of this section,
13 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 **designated**
29 **essential community or heritage facility**, a certified historic structure or a
30 structure in a certified historic district;

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

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

35 Only the property for which a property address is provided in the application
36 shall be reviewed for approval. Once selected for review, a taxpayer shall not be
37 permitted to request the review of another property for approval in the place of
38 the property contained in such application. Any disapproved application shall be

39 removed from the review process. If an application is removed from the review
40 process, the department of economic development shall notify the taxpayer in
41 writing of the decision to remove such application. Disapproved applications
42 shall lose priority in the review process. A disapproved application, which is
43 removed from the review process, may be resubmitted, but shall be deemed to be
44 a new submission for purposes of the priority procedures described in this section.

45 3. (1) In evaluating an application for tax credits submitted under this
46 section, the department of economic development shall also consider:

47 (a) The amount of projected net fiscal benefit of the project to the state
48 and local municipality, and the period in which the state and municipality would
49 realize such net fiscal benefit;

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

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

54 (d) Input from the local elected officials in the local municipality in which
55 the proposed project is located as to the importance of the proposed project to the
56 municipality. For any proposed project in any city not within a county, input
57 from the local elected officials shall include, but shall not be limited to, the
58 president of the board of aldermen.

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

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 in writing
70 of the reasons for such disapproval. A disapproved application may be
71 resubmitted. **If the scope of a project for which an application has been**
72 **approved under this section materially changes, then the taxpayer shall**
73 **be eligible to receive additional tax credits in the year in which the**
74 **department is notified of and approves of such change in scope, subject**

75 to the provisions of subsection 2 of section 253.550 and subsection 5 of
76 this section, if applicable, provided that if such project was originally
77 approved prior to August 28, 2018, the department shall evaluate the
78 change in scope of the project under the criteria in effect prior to such
79 date. A change in project scope shall be considered material under this
80 subsection if:

81 (1) The project has not previously been subject to a material
82 change in scope for which additional tax credits were approved; and

83 (2) The requested amount of tax credits for the project after such
84 change in scope are higher than the originally approved amount of tax
85 credits for such project by at least five hundred thousand dollars.

86 5. Following approval of an application, the identity of the taxpayer
87 contained in such application shall not be modified except:

88 (1) The taxpayer may add partners, members, or shareholders as part of
89 the ownership structure, so long as the principal remains [the same] a **principal**
90 **of the taxpayer**, provided however, that subsequent to the commencement of
91 renovation and the expenditure of at least ten percent of the proposed
92 rehabilitation budget, removal of the principal for failure to perform duties and
93 the appointment of a new principal thereafter shall not constitute a change of the
94 principal; or

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

97 6. In the event that the department of economic development grants
98 approval for tax credits equal to the total amount available **or reserved, as**
99 **applicable**, under subsection 2 of section 253.550, or sufficient that when totaled
100 with all other approvals, the amount available **or reserved, as applicable**,
101 under subsection 2 of section 253.550 is exhausted, all taxpayers with
102 applications then awaiting approval or thereafter submitted for approval shall be
103 notified by the department of economic development that no additional approvals
104 shall be granted during the fiscal year and shall be notified of the priority given
105 to such taxpayer's application then awaiting approval. Such applications shall
106 be kept on file by the department of economic development and shall be
107 considered for approval for tax credits in the order established in this section in
108 the event that additional credits become available due to the rescission of
109 approvals or when a new fiscal year's allocation of credits becomes available for
110 approval **or reservation, as applicable**.

111 7. All taxpayers with applications receiving approval on or after July 1,
112 2019, shall submit within sixty days following the award of credits evidence of the
113 capacity of the applicant to finance the costs and expenses for the rehabilitation
114 of the eligible property in the form of a line of credit or letter of commitment
115 subject to the lender's termination for a material adverse change impacting the
116 extension of credit. If the department of economic development determines that
117 a taxpayer has failed to comply with the requirements under this subsection, then
118 the department shall notify the applicant of such failure and the applicant shall
119 have a thirty-day period from the date of such notice to submit additional
120 evidence to remedy the failure.

121 8. All taxpayers with applications receiving approval on or after the
122 effective date of this act shall commence rehabilitation within **[nine] eighteen**
123 months of the date of issuance of the letter from the department of economic
124 development granting the approval for tax credits. "Commencement of
125 rehabilitation" shall mean that as of the date in which actual physical work,
126 contemplated by the architectural plans submitted with the application, has
127 begun, the taxpayer has incurred no less than **[ten] twenty** percent of the
128 estimated costs of rehabilitation provided in the application. Taxpayers with
129 approval of a project shall submit evidence of compliance with the provisions of
130 this subsection. **Taxpayers shall notify the department of any loss of site**
131 **control, or failure to exercise any option to obtain site control within**
132 **the prescribed time period, within ten days of such failure.** If the
133 department of economic development determines that a taxpayer has **lost or**
134 **failed to obtain site control of the eligible property or otherwise** failed
135 to comply with the requirements provided under this section, the approval for the
136 amount of tax credits for such taxpayer shall be rescinded [and such amount of
137 tax credits]. **A taxpayer may voluntarily forfeit such approval at any**
138 **time by written notice to the department. Any approval rescinded or**
139 **forfeited under this subsection** shall then be included in the total amount of
140 tax credits **available in the year of such rescission or forfeiture**, provided
141 under subsection 2 of section 253.550, from which approvals may be granted. Any
142 taxpayer whose approval [shall be subject to rescission] **is rescinded or**
143 **forfeited under this section** shall be notified of such from the department of
144 economic development and, upon receipt of such notice, may submit a new
145 application for the project. **If a taxpayer's approval is rescinded or**
146 **forfeited under this subsection and such taxpayer later submits a new**

147 **application for the same project, any expenditures eligible for tax**
148 **credits under section 253.550 which are incurred by such taxpayer from**
149 **and after the date of the rescinded or forfeited approval shall remain**
150 **eligible expenditures for the purposes of determining the amount of tax**
151 **credits which may be approved under section 253.550.**

152 9. **(1)** To claim the credit authorized under sections 253.550 to 253.559,
153 a taxpayer with approval shall apply for
154 final approval and issuance of tax credits from the department of economic
155 development which, in consultation with the department of natural resources,
156 shall determine the final amount of eligible rehabilitation costs and expenses and
157 whether the completed rehabilitation meets the **qualified rehabilitation**
158 standards [of the Secretary of the United States Department of the Interior for
159 rehabilitation] as determined by the state historic preservation officer of the
160 Missouri department of natural resources. **The department of natural**
161 **resources shall allow for a third party audit as evidence that the**
162 **completed rehabilitation meets the qualified rehabilitation standards.**

163 **(2)** Within sixty days of the department's receipt of all materials
164 required by the department for an application for final approval and
165 issuance of tax credits, the department shall issue to the taxpayer tax
166 credit certificates in the amount of seventy-five percent of the lesser of:

167 **(a)** The total amount of the tax credits for which the taxpayer is
168 eligible as provided in the taxpayer's certification of qualified expenses
169 submitted with an application for final approval; or

170 **(b)** The total amount of tax credits approved for such project
171 under subsection 3 of this section, including any amounts approved in
172 connection with a material change in scope of the project.

173 **(3)** Within one hundred twenty days of the department's receipt
174 of all materials required by the department for an application of final
175 approval and issuance of tax credits for a project, the department shall,
176 unless such project is under appeal under subsection 13 of this section:

177 **(a)** Make a final determination of the total costs and expenses of
178 rehabilitation and the amount of tax credits to be issued for such costs
179 and expenses;

180 **(b)** Notify the taxpayer in writing of its final determination; and

181 **(c)** Issue to the taxpayer tax credit certificates in an amount
182 equal to the remaining amount of tax credits for which such taxpayer
183 is eligible to receive, as determined by the department, but was not

184 **issued in the initial tax credit issuance under subdivision (2) of this**
185 **subsection.**

186 **(4) If the department determines that the amount of tax credits**
187 **issued to a taxpayer in the initial tax credit issuance under subdivision**
188 **(2) of this subsection is in excess of the total amount of tax credits such**
189 **taxpayer is eligible to receive, as determined by the department, the**
190 **department shall notify such taxpayer and such taxpayer shall repay**
191 **the department an amount equal to such excess.**

192 **(5) For financial institutions credits authorized pursuant to sections**
193 **253.550 to [253.561] 253.559 shall be deemed to be economic development credits**
194 **for purposes of section 148.064. The approval of all applications and the issuing**
195 **of certificates of eligible credits to taxpayers shall be performed by the**
196 **department of economic development. The department of economic development**
197 **shall inform a taxpayer of final approval by letter and shall issue, to the**
198 **taxpayer, tax credit certificates. The taxpayer shall attach the certificate to all**
199 **Missouri income tax returns on which the credit is claimed.**

200 **10. Except as expressly provided in this subsection, tax credit certificates**
201 **shall be issued in the final year that costs and expenses of rehabilitation of the**
202 **project are incurred, or within the twelve-month period immediately following the**
203 **conclusion of such rehabilitation. In the event the amount of eligible**
204 **rehabilitation costs and expenses incurred by a taxpayer would result in the**
205 **issuance of an amount of tax credits in excess of the amount provided under such**
206 **taxpayer's approval granted under subsection 4 of this section, such taxpayer may**
207 **apply to the department for issuance of tax credits in an amount equal to such**
208 **excess. Applications for issuance of tax credits in excess of the amount provided**
209 **under a taxpayer's application shall be made on a form prescribed by the**
210 **department. Such applications shall be subject to all provisions regarding**
211 **priority provided under subsection 1 of this section.**

212 **11. The department of economic development shall determine, on an**
213 **annual basis, the overall economic impact to the state from the rehabilitation of**
214 **eligible property.**

215 **12. (1) An applicant or an applicant's duly authorized**
216 **representative may appeal any official decision, including all**
217 **preliminary or final approvals and denials of approvals, made by the**
218 **department or the department of natural resources with regard to an**
219 **application submitted under sections 253.544 to 253.559, to an**

220 independent third-party appeals officer designated by the
221 department. Such appeals shall constitute an administrative review of
222 the decision from which appealed and shall not be conducted as an
223 adjudicative proceeding.

224 (2) Appeals shall be submitted to the designated appeals officer
225 in writing within thirty days of receipt by the applicant or the
226 applicant's duly authorized representative of the decision that is the
227 subject of the appeal, and shall include all information the appellant
228 wishes the appeals officer to consider in deciding the appeal.

229 (3) Within fourteen days of receipt of an appeal, the appeals
230 officer shall notify the department or the department of natural
231 resources that an appeal is pending, identify the decision being
232 appealed, and forward a copy of the information submitted by the
233 appellant. The department or the department of natural resources may
234 submit a written response to the appeal within thirty days.

235 (4) The appellant shall be entitled to one meeting with the
236 appeals officer to discuss the appeal, but the appeals officer may
237 schedule additional meetings at the officer's discretion. The
238 department or the department of natural resources may appear at all
239 meetings.

240 (5) The appeals officer shall consider the record of the decision
241 in question, any further written submissions by the appellant, the
242 department or the department of natural resources, and other available
243 information, and shall deliver a written decision to all parties as
244 promptly as circumstances permit, but not later than ninety days after
245 the initial receipt of an appeal by the appeals officer.

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 percent of
5 the amount of tax credits issued. The fee shall be paid by the recipient upon the
6 issuance of the tax credits. However, no fee shall be charged for the tax credits
7 issued under section 135.460, or section 208.770, or under sections 32.100 to
8 32.125, if issued for community services, crime prevention, education, job
9 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 from the
14 four percent fee charged on tax credits issued under sections 253.545 to 253.559
15 shall be appropriated from the economic development advancement fund for
16 business recruitment and marketing] **The provisions of subdivision (1) of
17 this subsection notwithstanding, the fees received by the department
18 of economic development from the four percent fee charged on tax
19 credits issued under sections 253.544 to 253.559 shall be distributed as
20 follows:**

21 **(a) Thirty-seven and one-half percent of such revenue shall be
22 deposited in the economic development advancement fund and shall be
23 appropriated for business recruitment and marketing;**

24 **(b) Twenty-five percent of such revenue shall be appropriated to
25 the department of economic development for the administration of the
26 provisions of sections 253.544 to 253.559;**

27 **(c) Twenty-five percent of such revenue shall be appropriated to
28 the department of natural resources for the administration of the
29 provisions of sections 253.544 to 253.559; and**

30 **(d) Twelve and one-half percent of such revenue shall be
31 deposited in the economic development advancement fund for the
32 purposes described in subsection 5 of this section.**

33 3. There is hereby created in the state treasury the "Economic
34 Development Advancement Fund", which shall consist of money collected under
35 this section. The state treasurer shall be custodian of the fund and shall approve
36 disbursements from the fund in accordance with sections 30.170 and
37 30.180. Upon appropriation, money in the fund shall be used solely for the
38 administration of this section. Notwithstanding the provisions of section 33.080
39 to the contrary, any moneys remaining in the fund at the end of the biennium
40 shall not revert to the credit of the general revenue fund. The state treasurer
41 shall invest moneys in the fund in the same manner as other funds are
42 invested. Any interest and moneys earned on such investments shall be credited
43 to the fund.

44 4. Such fund shall consist of any fees charged under subsection 1 of this
45 section, any gifts, contributions, grants, or bequests received from federal,
46 private, or other sources, fees or administrative charges from private activity
47 bond allocations, moneys transferred or paid to the department in return for

48 goods or services provided by the department, and any appropriations to the fund.
49 5. At least fifty percent of the fees and other moneys deposited in the fund
50 shall be appropriated for marketing, technical assistance, and training, contracts
51 for specialized economic development services, and new initiatives and pilot
52 programming to address economic trends. The remainder may be appropriated
53 toward the costs of staffing and operating expenses for the program activities of
54 the department of economic development, and for accountability functions.

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