

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 868

AN ACT

To repeal sections 100.265, 135.800, 135.802, 135.805, 135.810, 135.815, 135.825, 143.119, and 215.020, RSMo, and to enact in lieu thereof nine new sections relating to tax credits.

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

Section A. Sections 100.265, 135.800, 135.802, 135.805, 135.810, 135.815, 135.825, 143.119, and 215.020, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 100.265, 135.800, 135.802, 135.805, 135.810, 135.815, 135.825, 143.119, and 215.020, to read as follows:

100.265. 1. There is hereby created within the department of economic development the "Missouri Development Finance Board", which shall constitute a body corporate and politic and shall consist of ~~twelve~~ sixteen members, including the lieutenant governor, the director of the department of economic development, the director of the department of natural resources, ~~and~~ the director of the department of agriculture, two members of the senate, one of which shall be from the majority party appointed by the president pro tempore of the senate and one of which shall be from the minority party appointed by the minority leader, and two members of the house of representatives, one of which shall be from the majority party appointed by the speaker of the house of representatives and one of which shall be from the minority party appointed by the minority leader. No more than five members appointed by the governor to the board shall be of the same political party. Except for the lieutenant governor, the director of the department of economic development, the director of the department of

natural resources, [and] the director of the department of agriculture, and members of the general assembly, all members shall be appointed by the governor by and with the advice and consent of the senate, and shall serve for terms of four years. The persons serving as members of the Missouri economic development, export and infrastructure board on August 28, 1994, shall become members of the Missouri development finance board for terms to expire at the same time their terms would have expired if they had remained members of the Missouri economic development, export and infrastructure board. The Missouri development finance board shall replace the Missouri economic development, export and infrastructure board. All moneys, property, any other assets or liabilities of the Missouri economic development, export and infrastructure board on August 28, 1994, shall be transferred to the Missouri development finance board. All powers, duties and functions performed by the Missouri economic development, export and infrastructure board pursuant to sections 100.250 to 100.297 shall be transferred to the Missouri development finance board.

2. Each member of the board appointed by the governor shall have resided in this state for at least five years prior to appointment. Except for the lieutenant governor, director of the department of economic development, the director of the department of natural resources, [and] the director of the department of agriculture, and members of the general assembly, no person may be appointed to the board who is an elected officer or employee of the state, or any agency, board, commission, or authority established by the state.

3. The governor shall designate one of the members of the board to serve as chairman. The board shall meet at

such times and places it shall designate. ~~Seven~~ Nine members shall constitute a quorum. No vacancy in the membership shall impair the right of a quorum of the members to exercise all of the rights and powers and to perform all of the duties of the board.

4. Members of the board shall serve without compensation but shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

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

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

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

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

(3) ~~"All tax credit programs", or "any tax credit program", the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, financial and insurance~~

tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, the development tax credits created pursuant to sections 32.100 to 32.125, the rebuilding communities tax credit created pursuant to section 135.535, the film production tax credit created pursuant to section 135.750, the enhanced enterprise zone created pursuant to sections 135.950 to 135.970, and the Missouri quality jobs program created pursuant to sections 620.1875 to 620.1900;

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

(6) (5) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the adoption tax credit created pursuant to sections 135.325 to 135.339, the champion for children tax credit created pursuant to section 135.341, the maternity home tax credit created pursuant to section 135.600, the surviving spouse tax credit created pursuant to section 135.090, the

residential treatment agency tax credit created pursuant to section 135.1150, the pregnancy resource center tax credit created pursuant to section 135.630, the food pantry tax credit created pursuant to section 135.647, [the health care access fund tax credit created pursuant to section 135.575,] the residential dwelling access tax credit created pursuant to section 135.562, the developmental disability care provider tax credit created under section 135.1180, the shared care tax credit created pursuant to section 192.2015, the health, hunger, and hygiene tax credit created pursuant to section 135.1125, and the diaper bank tax credit created pursuant to section 135.621;

[(7)] (6) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, the research tax credit created pursuant to section 620.1039, the small business incubator tax credit created pursuant to section 620.495, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125;

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

[(9)] (8) "Financial and insurance tax credits", the bank franchise tax credit created pursuant to section 148.030, the bank tax credit for S corporations created pursuant to section 143.471, the exam fee tax credit created

pursuant to section 148.400, the health insurance pool tax credit created pursuant to section 376.975, the life and health insurance guaranty tax credit created pursuant to section 376.745, the property and casualty guaranty tax credit created pursuant to section 375.774, and the self-employed health insurance tax credit created pursuant to section 143.119;

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

[(11)] (10) "Recipient", the individual or entity who both:

(a) Is the original applicant for [and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805] a tax credit; and

(b) Who directly receives a tax credit or the right to transfer a tax credit under a tax credit program, regardless as to whether the tax credit has been used or redeemed; a recipient shall not include the transferee of a transferable tax credit;

[(12)] (11) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.559, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, the bond guarantee tax credit created pursuant to

section 100.297, the disabled access tax credit created pursuant to section 135.490, the new markets tax credit created pursuant to section 135.680, and the distressed areas land assemblage tax credit created pursuant to section 99.1205;

(12) "Tax credit program", any of the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

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

135.802. 1. Beginning January 1, 2005, all applications for all tax credit programs shall include, in addition to any requirements provided by the enacting statutes of a particular credit program, the following information to be submitted to the department administering the tax credit:

(1) Name, address, and phone number of the applicant or applicants, and the name, address, and phone number of a contact person or agent for the applicant or applicants;

(2) Taxpayer type, whether individual, corporation, nonprofit or other, and taxpayer identification number, if applicable;

(3) Standard industry code, if applicable;

(4) Program name and type of tax credit, including the identity of any other state or federal program being utilized for the same activity or project; and

(5) Number of estimated jobs to be directly created, as a result of the tax credits, if applicable, separated by construction, part-time permanent, and full-time permanent.

2. In addition to the information required by subsection 1 of this section, an applicant for a community development tax credit shall also provide information detailing the title and location of the corresponding project, the estimated time period for completion of the project, and all geographic areas impacted by the project.

3. In addition to the information required by subsection 1 of this section, an applicant for a redevelopment tax credit shall also provide information detailing the location and legal description of the property, age of the structure, if applicable, whether the property is residential, commercial, or governmental, and the projected project cost, labor cost, and projected date of completion. Where a redevelopment tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection.

4. In addition to the information required by subsection 1 of this section, an applicant for a business recruitment tax credit shall also provide information detailing the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the application, the number of employees projected to increase as a result of the completion of the project, and the estimated project cost.

5. In addition to the information required by subsection 1 of this section, an applicant for a training

and educational tax credit shall also provide information detailing the name and address of the educational institution to be used, the average salary of workers to be served, the estimated project cost, and the number of employees and number of students to be served.

6. In addition to the information required by subsection 1 of this section, an applicant for a housing tax credit also shall provide information detailing the address, legal description, and fair market value of the property, and the projected labor cost and projected completion date of the project. Where a housing tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection. For the purposes of this subsection, "fair market value" means the value as of the purchase of the property or the most recent assessment, whichever is more recent.

7. In addition to the information required by subsection 1 of this section, an applicant for an entrepreneurial tax credit shall also provide information detailing the amount of investment and the names of the project, fund, and research project.

8. In addition to the information required by subsection 1 of this section, an applicant for an agricultural tax credit shall also provide information detailing the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

9. In addition to the information required by subsection 1 of this section, an applicant for an environmental tax credit shall also include information detailing the type of equipment, if applicable, purchased

and any environmental impact statement, if required by state or federal law.

10. An administering agency, or the department of economic development with the consent of an administering agency, may, by rule, require additional information to be submitted by an applicant. Any rule or portion of a rule, as that term is defined in section 536.010, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be void.

11. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the application requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

12. It shall be the duty of each administering agency to provide information to every applicant, at some time prior to authorization of an applicant's tax credit application, wherein the requirements of this section, the annual reporting requirements of section 135.805, and the penalty provisions of section 135.810 are described in detail. Every applicant for a tax credit under a tax credit program, as part of the application process and as a condition of receiving such tax credit, shall sign a

statement affirming that the applicant is aware of the reporting requirements of section 135.805 and the penalty provisions of section 135.810.

135.805. 1. A recipient of any tax credit program, except domestic and social tax credits[, environmental tax credits,] or financial and insurance tax credits, shall [annually] on June thirtieth of each year, for a period of three years following the issuance of the tax credits, provide to the administering agency the actual number of jobs directly created that year as of June thirtieth as a result of the tax credits, [at the location on the last day of the annual reporting period,] separated by part-time permanent and full-time permanent for each month of the preceding twelve-month period.

2. A recipient of a community development tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the title and location of the corresponding project, the estimated and actual project cost, the estimated [or] and actual time period for completion of the project, and all geographic areas impacted by the project.

3. A recipient of a redevelopment tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected [or] and actual project cost, labor cost, and date of completion.

4. A recipient of a business recruitment tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming

the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated [or] and actual project cost.

5. A recipient of a training and educational tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated [or] and actual project cost, and the number of employees and number of students served as of such annual update.

6. A recipient of a housing tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section 135.802, and the projected [or] and actual labor [cost] and project costs and completion date of the project.

7. A recipient of an entrepreneurial tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

8. A recipient of an agricultural tax credit shall [annually] on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of

agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity or new generation cooperative then the new generation processing entity or new generation cooperative, and not the recipient, shall **[annually]** on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

9. A recipient of an environmental tax credit shall **[annually]** on June thirtieth of each year, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

10. **[The reporting requirements established in this section shall be due annually on June thirtieth of each year.]** No person or entity shall be required to make an annual report until at least one **[year]** month after the credit issuance date.

11. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

12. Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections 135.802 to 135.810. The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office or electronically for review by the department of economic development.

13. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

14. Notwithstanding provisions of law to the contrary, every agency of this state charged with administering a tax credit program authorized under the laws of this state shall make available for public inspection the name of each tax credit recipient and the amount of tax credits issued to each such recipient. An administering agency may satisfy this requirement by making such information available to the public through the department of economic development's website or the Missouri accountability portal.

15. The department of economic development shall make all information provided under the provisions of this section available for public inspection on the department's website and the Missouri accountability portal.

16. The administering agency of any tax credit program for which reporting requirements are required under the provisions of subsection 1 of this section shall publish guidelines and may promulgate rules to implement the provisions of such subsection. Any rule or portion of a

rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

135.810. 1. After credits have been issued, any failure to meet the annual reporting requirements established in section 135.805 or any determination of fraud in the application or reporting process shall result in penalties as follows:

(1) Failure to file the first annual report due under section 135.805 for more than ~~[six]~~ three months ~~[but less than one year]~~ shall result in a penalty equal to ~~[two]~~ one percent of the value of the credits issued for each month of delinquency ~~[during such time period]~~, provided such penalty shall not exceed a maximum of ten percent of the value of the credits issued;

(2) Failure to ~~[report]~~ file the second or third annual reports due under section 135.805 for more than ~~[one year]~~ three months shall result in a penalty equal to ~~[ten]~~ one and one-half percent of the value of the credits issued for each month of delinquency ~~[during such time period]~~ up to ~~[one hundred percent of the value of the credit issued is assessed by way of penalty]~~ a maximum of twenty percent, per report, of the value of the credits issued;

(3) Fraud in the application or reporting process shall result in a penalty equal to ~~[one]~~ two hundred percent

of the credits issued. No [taxpayer] recipient shall be deemed to have committed fraud in the application or reporting process for any credit unless such conclusion has been reached by [a court of competent jurisdiction or] the administrative hearing commission. The department of revenue, the department of economic development, or the administering agency may, by filing a complaint, submit to the administrative hearing commission the question of whether fraud in the application or reporting process for any credit has occurred. The burden of proof shall be on the governmental agency in such disputes. The issue shall be decided by the administrative hearing commission under the same procedural and evidentiary rules as ordinary contested cases before it.

2. [Ninety] Thirty days after the annual report is past due, the administering agency shall send notice by registered or certified mail to the last known address of the person or entity obligated to complete the annual reporting informing such person or entity of the past-due annual report and describing in detail the pending penalties and their respective deadlines. [Six] Three months after the annual report is past due, the administering agency shall notify the department of revenue of any [taxpayer] recipient subject to penalties. The [taxpayer shall be liable for any penalties as of December thirty-first of any tax year and such liability] payment of a penalty under this section shall be due as of the filing date of the [taxpayer's] recipient's next income tax return. If the [taxpayer] recipient is not required to file an income tax return, the [taxpayer's] recipient's liability for penalties shall be due as of the next April fifteenth [of each year]. The director of the department of revenue shall prepare forms and promulgate rules to allow for the reporting and

satisfaction of liability for such penalties, and, for valuable consideration, may enter into agreements to compromise or abate some or all of the penalty amount. The director of the department of revenue shall offset any credits claimed on a contemporaneously filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed. Any nonpayment of liability for penalties by the date due under this subsection shall be subject to the same provisions of law as a liability for unpaid income taxes, including[, but not limited to, interest and penalty provisions] underpayment interest provisions but excluding income tax penalty and addition to tax provisions.

3. Penalties shall remain the liability of the person or entity obligated to complete the annual reporting, without regard to any transfer of the credits.

4. Any person or entity obligated to complete the annual reporting requirements provided in section 135.805 shall provide the proper administering agency with notice of change of address when [necessary] a change of address occurs. The administering agency shall notify the department of revenue and the department of economic development of such change of address.

5. An administering agency may promulgate rules in order to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule

are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

135.815. 1. Prior to authorization of any tax credit application, an administering agency shall verify through the department of revenue that the tax credit applicant does not owe any delinquent income, sales, or use taxes, or interest, additions, or penalties on such taxes, and through the department of commerce and insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of commerce and insurance concludes that a taxpayer is delinquent after June fifteenth but before July first of any year, and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits towards a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

2. Any applicant of a tax credit program [contained in the definition of the term "all tax credit programs"] who [purposely and directly] knowingly employs unauthorized aliens shall forfeit any tax credits issued to such applicant which have not been redeemed, and shall repay the

amount of any tax credits redeemed by such applicant during the period of time such unauthorized alien was employed by the applicant. Such forfeiture and repayment shall be additional to, and not in lieu of, any penalties imposed pursuant to section 135.810. As used in this subsection, the term "unauthorized alien" shall mean an alien who does not have the legal right or authorization under federal law to work in the United States, as defined under Section 8 U.S.C. 1324a(h)(3). The amount of tax credits required to be repaid under this subsection, but which are not repaid by the applicant, shall be subject to the same procedure and provisions of law as a liability for unpaid income tax arising on the date that the department of revenue became aware of the violation of this provision.

135.825. 1. The administering agencies for all tax credit programs shall, in cooperation with the department of revenue and the department of economic development, implement a system for tracking the amount of tax credits authorized, issued, and redeemed. Any such agency may promulgate rules for the implementation of this section.

2. The provisions of this section shall not apply to any credit that is issued and redeemed simultaneously.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking

authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

143.119. 1. A self-employed taxpayer, as such term is used in the federal internal revenue code, who is otherwise ineligible for the federal income tax health insurance deduction under Section 162 of the federal internal revenue code shall be entitled to a credit against the tax otherwise due under this chapter, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to the portion of such taxpayer's federal tax liability incurred due to such taxpayer's inclusion of such payments in federal adjusted gross income. To be eligible for a credit under this section, the self-employed taxpayer shall have a Missouri income tax liability, before any other tax credits, of less than three thousand dollars. The tax credits authorized under this section shall be nontransferable, nonrefundable, and shall not be carried back or forward to any other tax year. [To the extent tax credit issued under this section exceeds a taxpayer's state income tax liability, such excess shall be considered an overpayment of tax and shall be refunded to the taxpayer.] A self-employed taxpayer shall not claim both a tax credit under this section and a subtraction under section 143.113, for the same tax year.

2. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly

pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

3. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of this section shall sunset automatically on December 31, 2028, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, this section shall sunset automatically December thirty-first six years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset; and

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

215.020. 1. There is hereby created and established as a governmental instrumentality of the state of Missouri the "Missouri Housing Development Commission" which shall constitute a body corporate and politic.

2. The commission shall consist of the governor, lieutenant governor, the state treasurer, the state attorney general, two members of the senate, one of which shall be from the majority party appointed by the president pro tempore of the senate and one of which shall be from the minority party appointed by the minority leader, and two

members of the house of representatives, one of which shall be from the majority party appointed by the speaker of the house of representatives and one of which shall be from the minority party appointed by the minority leader, and six members to be selected by the governor, with the advice and consent of the senate. The persons to be selected by the governor shall be individuals knowledgeable in the areas of housing, finance or construction. Not more than four of the members appointed by the governor shall be from the same political party. The members of the commission appointed by the governor shall serve the following terms: Two shall serve two years, two shall serve three years, and two shall serve four years, respectively. Thereafter, each appointment shall be for a term of four years. If for any reason a vacancy occurs, the governor, with the advice and consent of the senate, shall appoint a new member to fill the unexpired term. Members are eligible for reappointment.

3. ~~【Six】~~ Eight members of the commission shall constitute a quorum. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission. No action shall be taken by the commission except upon the affirmative vote of at least ~~【six】~~ eight of the members of the commission.

4. Each member of the commission appointed by the governor is entitled to compensation of fifty dollars per diem plus his reasonable and necessary expenses actually incurred in discharging his duties under sections 215.010 to 215.250.