

SENATE BILL NO. 1380

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

5423S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 135.1610, RSMo, and to enact in lieu thereof two new sections relating to tax credits for improving access to food.

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

Section A. Section 135.1610, RSMo, is repealed and two
2 new sections enacted in lieu thereof, to be known as sections
3 135.1610 and 135.1620, to read as follows:

135.1610. 1. As used in this section, the following
2 terms mean:

3 (1) "Eligible expenses", expenses incurred in the
4 construction or development of establishing or improving an
5 urban farm in an urban area **or a small-scale specialty crop**
6 **farm in a food desert**. The term eligible expenses shall not
7 include any expense for labor or any expense incurred to
8 grow medical marijuana or industrial hemp;

9 (2) "Food desert", a census tract that has a poverty
10 rate of at least twenty percent or a median family income of
11 less than eighty percent of the statewide average and where
12 at least five hundred people or thirty-three percent of the
13 population is located at least one-half mile away from a
14 full-service grocery store in an urban area or at least ten
15 miles away from a full-service grocery store in a rural area;

16 (3) "Rural area", a rural place as designated by the
17 United States Census Bureau;

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

18 (4) "Small-scale specialty crop farm", a farm no
19 larger than thirty acres and growing three or more types of
20 specialty crops at any given time on at least half of its
21 total acreage;

22 (5) "Specialty crop", fruits and vegetables, tree
23 nuts, dried fruits, and horticulture and nursery crops
24 including, but not limited to, floriculture;

25 (6) "Tax credit", a credit against the tax otherwise
26 due under chapter 143, excluding withholding tax imposed
27 under sections 143.191 to 143.265;

28 [(3)] (7) "Taxpayer", any individual, partnership, or
29 corporation as described under section 143.441 or 143.471
30 that is subject to the tax imposed under chapter 143,
31 excluding withholding tax imposed under sections 143.191 to
32 143.265, or any charitable organization that is exempt from
33 federal income tax and whose Missouri unrelated business
34 taxable income, if any, would be subject to the state income
35 tax imposed under chapter 143;

36 [(4)] (8) "Urban area", an urbanized area as defined
37 by the United States Census Bureau;

38 [(5)] (9) "Urban farm", an agricultural plot or
39 facility in an urban area that produces agricultural food
40 products used solely for distribution to the public by sale
41 or donation. Urban farm shall include community-run gardens
42 **and shall not exceed five acres in size.** Urban farm shall
43 not include personal farms or residential lots for personal
44 use.

45 2. For all tax years beginning on or after January 1,
46 2023, a taxpayer shall be allowed to claim a tax credit
47 against the taxpayer's state tax liability in an amount
48 equal to fifty percent of the taxpayer's eligible expenses
49 for establishing or improving an urban farm **or small-scale**

50 **specialty crop farm in a food desert** that focuses on food
51 production.

52 3. The amount of the tax credit claimed shall not
53 exceed the amount of the taxpayer's state tax liability in
54 the tax year for which the credit is claimed, and the
55 taxpayer shall not be allowed to claim a tax credit under
56 this section in excess of five thousand dollars for each
57 urban farm **or small-scale specialty crop farm**. The total
58 amount of tax credits that may be authorized for all
59 taxpayers for eligible expenses incurred on any given urban
60 farm **or small-scale specialty crop farm** shall not exceed
61 twenty-five thousand dollars. Any issued tax credit that
62 cannot be claimed in the tax year in which the eligible
63 expenses were incurred may be carried over to the next three
64 succeeding tax years until the full credit is claimed.

65 4. The total amount of tax credits that may be
66 authorized under this section shall not exceed [two hundred
67 thousand] **three million** dollars in any calendar year.

68 5. Tax credits issued under the provisions of this
69 section shall not be transferred, sold, or assigned.

70 6. The Missouri agricultural and small business
71 development authority shall recapture the amount of tax
72 credits issued to any taxpayer who, after receiving such tax
73 credit, uses the urban farm for the personal benefit of the
74 taxpayer instead of for producing agricultural food products
75 used solely for distribution to the public by sale or
76 donation.

77 7. The Missouri agricultural and small business
78 development authority may promulgate rules to implement the
79 provisions of this section. Any rule or portion of a rule,
80 as that term is defined in section 536.010, that is created
81 under the authority delegated in this section shall become

82 effective only if it complies with and is subject to all of
83 the provisions of chapter 536 and, if applicable, section
84 536.028. This section and chapter 536 are nonseverable and
85 if any of the powers vested with the general assembly
86 pursuant to chapter 536 to review, to delay the effective
87 date, or to disapprove and annul a rule are subsequently
88 held unconstitutional, then the grant of rulemaking
89 authority and any rule proposed or adopted after January 2,
90 2023, shall be invalid and void.

91 8. Under section 23.253 of the Missouri sunset act:

92 (1) The program authorized under this section shall
93 automatically sunset on December 31, 2028, unless
94 reauthorized by an act of the general assembly;

95 (2) If such program is reauthorized, the program
96 authorized under this section shall automatically sunset on
97 December thirty-first twelve years after the effective date
98 of the reauthorization of this section;

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

103 (4) Nothing in this subsection shall prevent a
104 taxpayer from claiming a tax credit properly issued before
105 the program was sunset in a tax year after the program is
106 sunset.

**135.1620. 1. As used in this section, the following
2 terms mean:**

3 (1) "Department", the Missouri department of economic
4 development;

5 (2) "Eligible expenses", expenses incurred in the
6 construction or development of real property for the purpose

7 of establishing a full-service grocery store in a food
8 desert;

9 (3) "Food desert", a census tract that has a poverty
10 rate of at least twenty percent or a median family income of
11 less than eighty percent of the statewide average and where
12 at least five hundred people or thirty-three percent of the
13 population are located at least one-half mile away from a
14 full-service grocery store in urbanized areas or at least
15 ten miles away in rural areas;

16 (4) "Full-service grocery store", a grocery store that
17 provides a full complement of healthful fruits, vegetables,
18 grains, meat, and dairy products along with household
19 items. Fresh fruits and vegetables shall be available for
20 sale in quantities that are substantially similar to
21 industry standards for facilities of similar size. A lack
22 of availability of fresh fruits and vegetables in sufficient
23 quantities due to a supply shortage, as determined by the
24 department, shall not disqualify an entity from being a full-
25 service grocery store otherwise eligible for tax credits
26 pursuant to this section;

27 (5) "New location", a full-service grocery store
28 facility located on a tract of real property within a food
29 desert acquired by or leased to a taxpayer on or after
30 January 1, 2025. A location shall be deemed to have been
31 acquired by or leased to a taxpayer on or after January 1,
32 2025, if the transfer of title to the taxpayer, the transfer
33 of possession under a binding contract to transfer title to
34 the taxpayer, or the commencement of the term of the lease
35 to the taxpayer occurs on or after January 1, 2025, or if
36 the commencement of the construction or installation of the
37 facility by or on behalf of a taxpayer occurs on or after
38 January 1, 2025;

39 (6) "Rural area", a town or community within the state
40 that is not within a metropolitan statistical area and has a
41 population of six thousand or fewer inhabitants as
42 determined by the last preceding federal decennial census or
43 any unincorporated area not within a metropolitan
44 statistical area;

45 (7) "Tax credit", a credit against the tax otherwise
46 due under chapter 143, excluding withholding tax imposed
47 under sections 143.191 to 143.265;

48 (8) "Taxpayer", any individual, partnership, or
49 corporation as described under section 143.441 or 143.471
50 that is subject to the tax imposed under chapter 143,
51 excluding withholding tax imposed under sections 143.191 to
52 143.265, or any charitable organization that is exempt from
53 federal income tax and whose Missouri unrelated business
54 taxable income, if any, would be subject to the state income
55 tax imposed under chapter 143;

56 (9) "Urbanized area", an urbanized area as designated
57 by the United States Census Bureau.

58 2. For all tax years beginning on or after January 1,
59 2025, a taxpayer shall be allowed to claim a tax credit
60 against the taxpayer's state tax liability in an amount
61 equal to fifty percent of the taxpayer's eligible expenses
62 that are in excess of initial eligible expenses of:

63 (1) One million dollars if the full-service grocery
64 store is established in a charter county, a county of the
65 first classification, or a city not within a county; or

66 (2) Five hundred thousand dollars if the full-service
67 grocery store is established in any other county.

68 3. (1) In order to claim a tax credit pursuant to
69 this section, a taxpayer shall submit an application to the
70 department, which shall include:

71 (a) All eligible expenses incurred by the taxpayer;

72 (b) The date of the commencement of construction of
73 the full-service grocery store;

74 (c) The anticipated date of the commencement of
75 operations of the full-service grocery store; and

76 (d) Any other information required by the department
77 to implement the provisions of this section.

78 (2) The amount of the tax credit shall not exceed the
79 amount of the taxpayer's state tax liability in the tax year
80 for which the credit is claimed, and such taxpayer shall not
81 be allowed to claim a tax credit in excess of two million
82 five hundred thousand dollars per tax year. However, any
83 tax credit that cannot be claimed in the tax year the
84 eligible expenses were incurred may be carried over to the
85 next three succeeding tax years until the full credit is
86 claimed.

87 4. The total amount of tax credits that may be
88 authorized under this section shall not exceed twenty-two
89 million dollars in any calendar year, which shall be
90 authorized on a first-come, first-served basis.

91 5. Tax credits issued under the provisions of this
92 section may be transferred, sold, or assigned.

93 6. (1) The issuance of tax credits authorized under
94 this section shall cease and the department shall recoup
95 from the taxpayer and deposit in the general revenue fund an
96 amount equal to all credits previously issued to the
97 taxpayer under this section, less any amounts previously
98 repaid, increased by the amount of interest that would have
99 been earned on the amount of such tax credits, in the event
100 that the taxpayer:

101 (a) Fails to complete construction of a full-service
102 grocery store within five years of the commencement of the
103 project; or

104 (b) Fails to operate a full-service grocery store at
105 the same new location for at least ten consecutive years.

106 (2) A taxpayer shall annually submit a report to the
107 department, on a form to be developed by the department,
108 indicating that the taxpayer is in compliance with the
109 provisions of this section.

110 7. The department may promulgate rules to implement
111 the provisions of this section. Any rule or portion of a
112 rule, as that term is defined in section 536.010, that is
113 created under the authority delegated in this section shall
114 become effective only if it complies with and is subject to
115 all of the provisions of chapter 536 and, if applicable,
116 section 536.028. This section and chapter 536 are
117 nonseverable and if any of the powers vested with the
118 general assembly pursuant to chapter 536 to review, to delay
119 the effective date, or to disapprove and annul a rule are
120 subsequently held unconstitutional, then the grant of
121 rulemaking authority and any rule proposed or adopted after
122 August 28, 2024, shall be invalid and void.

123 8. Under section 23.253 of the Missouri sunset act:

124 (1) The program authorized under this section shall
125 automatically sunset on December thirty-first six years
126 after the effective date of this section, unless
127 reauthorized by an act of the general assembly;

128 (2) If such program is reauthorized, the program
129 authorized under this section shall automatically sunset on
130 December thirty-first twelve years after the effective date
131 of the reauthorization of this section;

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

136 (4) Nothing in this subsection shall prevent a
137 taxpayer from claiming a tax credit properly issued before
138 the program was sunset in a tax year after the program is
139 sunset.

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