

SECOND REGULAR SESSION

SENATE BILL NO. 911

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR McKENNA.

Read 1st time February 12, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3877.01I

AN ACT

To repeal section 215.030, RSMo Supp. 1997, and sections 100.840, 135.403, 135.405 and 135.503, as enacted by senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and approved by the governor, and to enact in lieu thereof eight new sections for the purpose of providing tax relief in distressed communities.

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

Section A. Section 215.030, RSMo Supp. 1997, and sections 100.840, 135.403, 135.405 and 135.503, as enacted by senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and approved by the governor, are repealed and eight new sections enacted in lieu thereof, to be known as sections 100.840, 135.403, 135.405, 135.503, 135.530, 135.535, 135.545 and 215.030, to read as follows:

100.840. 1. To provide funds for the present payment of the costs of economic development projects, the board may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. The total amount of outstanding certificates sold by the board shall not exceed [seventy-five] **one hundred** million dollars. **At least twenty-five percent of such maximum shall be spent for facilities located in distressed communities as defined in section 135.530, RSMo. If such funds are not spent in the allocated year, such funds shall be held in the state treasury until spent in such areas, and such distressed communities shall still be eligible for the remainder of the funds without regard to receipt of such designated funds.** The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public

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

sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board, and may bear interest at such rate or rates as the board shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. Certificates may be issued for the purpose of refunding a like, greater or lesser principal amount of certificates and may bear a higher, lower or equivalent rate of interest than the certificates being renewed or refunded.

3. The board shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

4. Certificates issued pursuant to this section shall not be deemed to be an indebtedness of the state or the board or of any political subdivision of the state.

135.403. 1. Any investor who makes a qualified investment in a Missouri small business shall be entitled to receive a tax credit equal to forty percent of the amount of the investment and any investor who makes a qualified investment in a community bank or a community development corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the investment if the investment is made in a community bank or community development corporation for direct investment into a targeted area as defined in section 135.400 **or in a Missouri small business in a distressed community**. The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed [five] **nine million dollars and at least four million dollars of the amount authorized by this section and certified by the department of economic development shall be for investment in Missouri small businesses in distressed communities and such investment in distressed communities and in targeted areas shall have priority over other areas for up to eighty percent of the total amount authorized by this section**. No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment into a targeted area shall be certified for any one project, as defined in section 135.400. The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in which the qualified investment is made, or in any of the ten tax years thereafter. No investor may receive a tax credit pursuant to

sections 135.400 to 135.430 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The department of revenue shall grant tax credits in the same order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections may be transferred, sold or assigned by notarized endorsement thereof which names the transferee.

2. The amount of qualified investments which can be made is limited so that the aggregate of all tax credits authorized pursuant to the provisions of sections 135.400 to 135.430 shall not exceed [eleven] **fifteen** million dollars. Six million dollars in tax credits shall be available as a result of investments in community banks or community development corporations. Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business.

135.405. The total amount of tax credit evidenced by certificates of tax credit issued to or owned, directly or indirectly, by a single taxpayer authorized by the department who has invested in a Missouri small business shall be not less than one thousand five hundred dollars nor more than an aggregate of one hundred thousand dollars in any one business, except that this section shall not be interpreted to limit other investment. These limits shall not apply to investments in community banks or community development corporations **or to Missouri small businesses in distressed communities.**

135.503. 1. Any investor that makes an investment of certified capital shall, in the year of investment, earn a vested credit against state premium tax liability equal to the applicable percentage of the investor's investment of certified capital. An investor shall be entitled to take up to ten percent of the vested credit in any taxable year of the investor. Any time after three years after August 28, 1996, the director, with the approval of the commissioner of administration, may reduce the applicable percentage on a prospective basis. Any such reduction in the applicable percentage by the director shall not have any effect on credits against state premium tax liability which have been claimed or will be claimed by any investor with respect to credits which have been earned and vested pursuant to an investment of certified capital prior to the effective date of any such change.

2. An insurance company claiming a state premium tax credit earned through an investment in a certified capital company shall not be required to pay any additional retaliatory tax levied pursuant to section 375.916, RSMo, as a result of claiming such credit.

3. The credit against state premium tax liability which is described in subsection 1 of this section may not exceed the state premium tax liability of the investor for any taxable year. All such credits against state premium tax liability may be carried forward indefinitely until the

credits are utilized. The maximum amount of certified capital in one or more certified capital companies for which earned and vested tax credits will be allowed in any year to any one investor or its affiliates shall be limited to ten million dollars.

4. The aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for all persons pursuant to sections 135.500 to 135.529 shall not exceed the following amounts: for calendar year 1996, \$0.00; for calendar year 1997, an amount which would entitle all Missouri certified capital company investors to take aggregate credits of five million dollars; and for any year thereafter, an additional amount to be determined by the director but not to exceed aggregate credits of [ten] **fourteen** million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years to take them, pursuant to subsection 1 of this section. **At least twenty-five percent of such maximum shall be spent by each certified capital company in businesses located in distressed communities as defined in section 135.530.** During any calendar year in which the limitation described in this subsection will limit the amount of certified capital for which earned and vested credits against state premium tax liability are allowed, certified capital for which credits are allowed will be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section 135.516 **subject to the portion designated for investments in businesses in distressed communities as defined in section 135.530.** Certified capital limited in any calendar year by the application of the provisions of this subsection shall be allowed and allocated in the immediately succeeding calendar year in the order of priority set forth in this subsection.

5. The department shall advise any Missouri certified capital company, in writing, within fifteen days after receiving the filing described in subdivision (1) of subsection 5 of section 135.516 whether the limitations of subsection 3 of this section then in effect will be applicable with respect to the investments and credits described in such filing with the department.

135.530. For the purposes of section 100.840, RSMo, section 135.503, sections 135.530 to 135.545, and section 214.080, RSMo, "distressed community" means either a Missouri municipality or a United States census block group which, if in a standard metropolitan statistical area as defined by the United States census, has a median household income of under seventy percent of the median household income for the metropolitan area, according to the last decennial census, or which, if in a nonmetropolitan area, a Missouri municipality which has a median household income of under seventy percent of the median household income for nonmetropolitan areas in Missouri according to the last decennial census.

135.535. 1. A corporation, limited liability corporation, partnership or sole

proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications, Internet applications or professional firm shall receive a credit equal to twenty-five percent of the firm's income tax liability pursuant to chapter 143, RSMo, for income generated by the facility in the distressed community, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit.

2. An employee of any entity specified in subsection 1 of this section for whom payroll taxes are paid shall also receive credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of his or her gross salary earned while employed at such location in a distressed community, for each of the three years that the facility receives the tax credit provided by this section, as long as he or she was a qualified employee of that entity.

3. A tax credit, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of twenty-five percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense at the facility in the distressed community up to a maximum of thirty-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Such tax credits may be transferred, sold or assigned over to any person or entity in any way.

5. The tax credits allowed pursuant to subsections 1 and 3 of this section shall be for an amount of no more than ten million dollars for each year beginning 1999 and thereafter through the year 2004.

135.545. A taxpayer shall be allowed a credit for taxes paid pursuant to chapter 143, RSMo, in an amount equal to fifty percent of a qualified investment in transportation development for aviation, mass transportation, railroads, ports, waterborne transportation or rolling stock located in a municipality which is classified as a distressed community as defined in section 135.530, and which are part of a development plan approved by the municipality and the appropriate local transit

agency. If the department of economic development determines the investment has been so approved, the department shall grant the tax credit in order of the date received. The credits cannot be used in any one tax year if the credit amount exceeds the taxpayer's liability. A taxpayer may carry forward any unused tax credit for up to ten years until such credit has been fully used. The tax credit granted pursuant to this section may be transferred, sold or assigned over to any other taxpayer pursuant to rules and regulations promulgated by the director of the department of revenue for that purpose. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

215.030. 1. The commission is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its purpose, including but not limited to the following:

(1) To make, purchase or participate in the purchase of uninsured, partially insured or fully insured loans, including mortgages insured or otherwise guaranteed by the federal government, or mortgages insured or otherwise guaranteed by other insurers of mortgages to approved mortgagors to finance the building, rehabilitation or purchase of residential housing designed and planned to be available for rental or sale to low-income or moderate-income persons or families, **as well as to finance the building, rehabilitation or purchase of residential housing in distressed communities as defined in section 135.530, RSMo, planned to be available for rental or sale to persons or families of any income level**, or which will be occupied and owned by low-income or moderate-income persons, **persons of any income level in distressed communities** or families upon such terms as designated in sections 215.010, 215.030, 215.060, 215.070, [215.075.] 215.090 and 215.160; or to purchase or participate in the purchase of any other securities which are secured, directly or indirectly, by any such loan;

(2) Insure any loan, the funds of which are to be used for the purposes of sections 215.010 to 215.250 and the borrower of which agrees to the restrictions placed on such projects by the commission;

(3) To make or participate in the making of uninsured or federally insured construction loans to approve mortgagors of residential housing for [occupancy by persons and families of low and moderate income] **occupancy by persons and families of low to moderate income or occupancy by persons and families of any income level in distressed communities as defined in section 135.530, RSMo.** Such loans shall be made only upon determination by the commission that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions. No commitment for a loan, except a "commitment in principle", shall be made unless all plans for development have been completed and submitted to the commission;

(4) To make temporary loans, with or without interest, but with such security for

repayment as the commission deems reasonably necessary and practicable, to defray development costs to approved mortgagors of residential housing for occupancy by persons and families of low and moderate income;

(5) Adopt bylaws for the regulation of its affairs and the conduct of its business and define, from time to time, the terms "low-income" and "moderate-income" so as to best carry out the purposes of sections 215.010 to 215.250 for the people intended hereby to be assisted. The definition may vary from one part of the state to another depending on economic factors in each section;

(6) To accept appropriations, gifts, grants, bequests, and devises and to utilize or dispose of the same to carry out its purpose;

(7) To make and execute contracts, releases, compromises, and other instruments necessary or convenient for the exercise of its powers, or to carry out its purpose;

(8) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in connection with providing technical, consultative and project assistant services. Such fees and charges shall be limited to the amounts required to pay the costs of the commission, including operating and administrative expenses, and reasonable allowances for losses which may be incurred;

(9) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States government or any instrumentality thereof, the principal and interest of which are guaranteed by the state of Missouri, or the United States government or any instrumentality thereof, or bank certificates of deposit, or, in the case of funds pledged to note or bond issues of the commission, in such investments as the commission may determine; provided that on the date of issuance such note or bond issues are rated by Standard & Poor's Corporation not lower than "AA" in the case of long-term obligations or "SP-1+" in the case of short-term obligations or rated by Moody's Investors Service, Inc., not lower than "Aa" in the case of long-term obligations or Moody's Investment Grade I in the case of short-term obligations, or the equivalent ratings by such rating agencies in the event the ratings described in this section are changed;

(10) To sue and be sued;

(11) To have a seal and alter the same at will;

(12) To make, and from time to time, amend and repeal bylaws, rules and regulations not inconsistent with the provisions of sections 215.010 to 215.250;

(13) To acquire, hold and dispose of personal property for its purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

(15) To acquire real property, or an interest therein, in its own name, to sell, transfer and convey any such property to a buyer, to lease such property to a tenant to manage and operate

such property, to enter into management contracts with respect to such property and to mortgage such property;

(16) To sell, at public or private sale, any mortgage, negotiable instrument or obligation securing a construction, land development, mortgage or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the commission is a party;

(19) To make and publish rules and regulations respecting its lending, insurance of loans, federally insured construction lending and temporary lending to defray development costs and any such other rules and regulations as are necessary to effectuate its purpose;

(20) To borrow money to carry out and effectuate its purpose and to issue its negotiable bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its purpose, and to secure such bonds or notes by the pledge of revenues, mortgages or notes of others;

(21) To issue renewal notes, to issue bonds to pay notes, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption, or payment of the notes or bonds to be refunded;

(23) To provide technical services to assist in the planning, processing, design, construction or rehabilitation of residential housing for occupancy by persons and families of low and moderate income, **persons and families in distressed communities as defined in section 135.530, RSMo, of any income level** or land development for residential housing for occupancy by persons and families of low and moderate income **or persons and families in distressed communities of any income level**;

(24) To provide consultative project assistance services for residential housing for occupancy by persons and families of low and moderate income **or persons and families of any income level in distressed communities as defined in section 135.530, RSMo**, and for land development for residential housing for occupancy by persons and families of low and moderate income, **or for persons and families of any income level in distressed communities** and for the residents thereof with respect to management, training and social services;

(25) To promote research and development in scientific methods of constructing low cost residential housing of high durability; and

(26) To make, purchase or participate in the purchase of uninsured, partially insured or

fully insured loans and home improvement loans to sponsors to finance the weatherization of single and multifamily dwellings, and shall issue its negotiable bonds or notes for such purpose.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

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