

SECOND REGULAR SESSION

# SENATE BILL NO. 549

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4144S.02I

## AN ACT

To repeal sections 135.350, 135.352, and 135.363, RSMo, and to enact in lieu thereof three new sections relating to low-income housing tax credits.

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

Section A. Sections 135.350, 135.352, and 135.363, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 135.350,  
3 135.352, and 135.363, to read as follows:

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

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

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

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

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

17 (5) "Federal low-income housing tax credit", the federal tax credit as  
18 provided in section 42 of the 1986 Internal Revenue Code, as amended;

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

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

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

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

30            **(9) "State authorization limit", an amount of Missouri low-income**  
31 **housing tax credits not to exceed the lesser of:**

32            **(a) Seventy-two and one-half percent of the federal housing**  
33 **credit allocation; or**

34            **(b) One hundred twenty-three million dollars, adjusted annually**  
35 **by the percentage increase in the Consumer Price Index for All Urban**  
36 **Consumers Midwest Region, or its successor index;**  
37 **increased by any amount of state tax credits that are recaptured under**  
38 **the provisions of section 135.355. "State authorization limit" shall not**  
39 **include tax credits authorized for projects financed through tax-exempt**  
40 **bond issuance;**

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

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

6            2. For qualified Missouri projects placed in service after January 1, 1997,

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

12 **3. For all fiscal years beginning on or after July 1, 2020, the**  
13 **aggregate amount of tax credits authorized in a fiscal year for projects**  
14 **not financed through tax-exempt bond issuance shall not exceed the**  
15 **state authorization limit.**

16 **4. No more than six million dollars in tax credits shall be authorized each**  
17 **fiscal year for projects financed through tax-exempt bond issuance. For all**  
18 **fiscal years beginning on or after July 1, 2020, no more than four**  
19 **million dollars annually in state tax credits shall be authorized each**  
20 **fiscal year to projects financed through tax-exempt bond**  
21 **issuance. Notwithstanding the provisions of subsection 3 of this section**  
22 **to the contrary, to the extent that less than four million dollars in state**  
23 **tax credits are authorized to projects financed through tax-exempt**  
24 **bond issuance in any fiscal year, such remainder may be, for such fiscal**  
25 **year only, added to the annual amount authorized under subsection 3**  
26 **of this section to projects that are not financed through tax-exempt**  
27 **bond issuance.**

28 [4.] **5.** The Missouri low-income housing tax credit shall be taken against  
29 the taxes and in the order specified pursuant to section 32.115. The credit  
30 authorized by this section shall not be refundable. Any amount of credit that  
31 exceeds the tax due for a taxpayer's taxable year may be carried back to any of  
32 the taxpayer's three prior taxable years or carried forward to any of the  
33 taxpayer's five subsequent taxable years.

34 [5. All or any portion of Missouri tax credits issued in accordance with the  
35 provisions of sections 135.350 to 135.362 may be allocated to parties who are  
36 eligible pursuant to the provisions of subsection 1 of this section. Beginning  
37 January 1, 1995, for qualified projects which began on or after January 1, 1994,  
38 an owner of a qualified Missouri project shall certify to the director the amount  
39 of credit allocated to each taxpayer. The owner of the project shall provide to the  
40 director appropriate information so that the low-income housing tax credit can be  
41 properly allocated.

42 **6. In the event that recapture of Missouri low-income housing tax credits**

43 is required pursuant to subsection 2 of section 135.355, any statement submitted  
44 to the director as provided in this section shall include the proportion of the state  
45 credit required to be recaptured, the identity of each taxpayer subject to the  
46 recapture and the amount of credit previously allocated to such taxpayer.]

47 **6. For tax credits that are allocated solely within a partnership**  
48 **owning an interest in a qualified Missouri project, the owner shall**  
49 **certify to the director the amount of credit allocated to each taxpayer**  
50 **owning an interest in the project. The owner of the project shall**  
51 **provide to the director appropriate information so that the low-income**  
52 **housing tax credit can be properly allocated. In the event that**  
53 **recapture of the Missouri low-income housing tax credit is required**  
54 **under subsection 2 of section 135.355, any statement submitted to the**  
55 **director as provided in this subsection shall include the proportion of**  
56 **the state credit required to be recaptured, the identity of each taxpayer**  
57 **subject to the recapture and the amount of credit previously allocated**  
58 **to such taxpayer.**

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

63 **8. To aid in awarding credits under this section, the commission**  
64 **shall establish an evaluation rubric and score applicants for qualified**  
65 **Missouri projects against the rubric. The evaluation rubric shall**  
66 **include a component and score for applications that provide**  
67 **documentation to the commission demonstrating the applicant received**  
68 **competitive bids for the tax credits. The commission shall publish the**  
69 **rubric before it accepts applications and shall publish the scored rubric**  
70 **for each application.**

135.363. 1. All or any portion of tax credits issued in accordance with the  
2 provisions of sections 135.350 to 135.363 may be transferred, sold or assigned to  
3 parties who are eligible under the provisions of subsection 1 of section  
4 135.352. **For qualified Missouri projects, an owner or transferee**  
5 **desiring to make a transfer, sale, or assignment as described in this**  
6 **subsection shall submit to the director of revenue a statement that**  
7 **describes the amount of credit for which such transfer, sale, or**  
8 **assignment of credit is eligible. The owner shall provide to the director**  
9 **of revenue appropriate information so that the low-income housing tax**

10 **credit can be properly allocated.**

11           2. [Beginning January 1, 1995, for qualified projects which began on or  
12 after January 1, 1994, an owner or transferee desiring to make a transfer, sale  
13 or assignment as described in subsection 1 of this section shall submit to the  
14 director of the department of revenue a statement which describes the amount of  
15 credit for which such transfer, sale or assignment of credit is eligible. The owner  
16 shall provide to the director of revenue appropriate information so that the  
17 low-income housing tax credit can be properly allocated.

18           3. In the event that recapture of Missouri low-income housing tax credits  
19 is required pursuant to subsection 2 of section 135.355, any statement submitted  
20 to the director of the department of revenue as provided in this section shall  
21 include the proportion of the state credit required to be recaptured, the identity  
22 of each transferee subject to recapture and the amount of credit previously  
23 transferred to such transferee.

24           **4.] Beginning August 28, 2021, the commission shall establish a**  
25 **pilot program under which the tax credits issued in accordance with**  
26 **the provisions of sections 135.350 to 135.363 may be transferred, sold,**  
27 **or assigned to a third party if so authorized by the commission and**  
28 **elected by the taxpayer. The amount of tax credits authorized to be**  
29 **transferred under this subsection shall not exceed fifteen percent of the**  
30 **state authorization limit. To transfer, sell, or assign a tax credit to a**  
31 **third party under this subsection, the taxpayer shall file a notarized**  
32 **endorsement thereof that names the transferee, the amount of tax**  
33 **credit transferred, and the value received for the credit, as well as any**  
34 **other information reasonably requested by the department, with the**  
35 **department of revenue. In the event that recapture of the Missouri low-**  
36 **income housing tax credit is required under subsection 2 of section**  
37 **135.355, any notarized endorsement submitted to the director as**  
38 **provided in this subsection shall include the proportion of the state**  
39 **credit required to be recaptured, the identity of each taxpayer subject**  
40 **to the recapture, and the amount of credit previously sold, transferred,**  
41 **or assigned to such taxpayer. For the purposes of the pilot program**  
42 **established under this subsection, the provisions of subsection 1 of**  
43 **section 135.352 requiring ownership interest in a qualified Missouri**  
44 **project shall not apply. The pilot program established under this**  
45 **subsection shall expire on August 28, 2024.**

46           **3.** The director of the department of revenue may prescribe rules and  
47 regulations necessary for the administration of the provisions of this section.

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