

# SENATE BILL NO. 860

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

4083S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 135.350 and 135.352, RSMo, and to enact in lieu thereof two 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Section A. Sections 135.350 and 135.352, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.350 and 135.352, to read as follows:

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

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

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

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

(4) **"Federal housing credit allocation", the amount of the federal low-income housing tax credits allocated to the state under 26 U.S.C. Section 42, 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) "Federal low-income housing tax credit", the  
20 federal tax credit as provided in section 42 of the 1986  
21 Internal Revenue Code, as amended;

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

29           [(6)] (7) "Median income", those incomes which are  
30 determined by the federal Department of Housing and Urban  
31 Development guidelines and adjusted for family size;

32           [(7)] (8) "Qualified Missouri project", a qualified  
33 low-income building as that term is defined in section 42 of  
34 the 1986 Internal Revenue Code, as amended, which is located  
35 in Missouri;

36           (9) **"State authorization limit", seventy percent of**  
37 **the federal housing credit allocation, increased by any**  
38 **amount of state tax credits that are recaptured under the**  
39 **provisions of section 135.355. "State authorization limit"**  
40 **shall not include tax credits authorized for projects**  
41 **financed through tax-exempt bond issuance;**

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

51 chapter 148, or an express company which pays an annual tax  
52 on its gross receipts in this state.

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

8 2. For qualified Missouri projects placed in service  
9 after January 1, 1997, the Missouri low-income housing tax  
10 credit available to a project shall be such amount as the  
11 commission shall determine is necessary to ensure the  
12 feasibility of the project, up to an amount equal to the  
13 federal low-income housing tax credit for a qualified  
14 Missouri project, for a federal tax period, and such amount  
15 shall be subtracted from the amount of state tax otherwise  
16 due for the same tax period.

17 3. **For all fiscal years beginning on or after July 1,**  
18 **2022, the aggregate amount of tax credits authorized in a**  
19 **fiscal year for projects not financed through tax-exempt**  
20 **bond issuance shall not exceed the state authorization limit.**

21 4. No more than six million dollars in tax credits  
22 shall be authorized each fiscal year for projects financed  
23 through tax-exempt bond issuance. **For all fiscal years**  
24 **beginning on or after July 1, 2022, no more than four**  
25 **million dollars annually in state tax credits shall be**  
26 **authorized each fiscal year to projects financed through tax-**  
27 **exempt bond issuance. Notwithstanding the provisions of**  
28 **subsection 3 of this section to the contrary, to the extent**  
29 **that less than four million dollars in state tax credits are**  
30 **authorized to projects financed through tax-exempt bond**

31 issuance in any fiscal year, such remainder may be, for such  
32 fiscal year only, added to the annual amount authorized  
33 under subsection 3 of this section to projects that are not  
34 financed through tax-exempt bond issuance.

35 [4.] 5. The Missouri low-income housing tax credit  
36 shall be taken against the taxes and in the order specified  
37 pursuant to section 32.115. The credit authorized by this  
38 section shall not be refundable. Any amount of credit that  
39 exceeds the tax due for a taxpayer's taxable year may be  
40 carried back to any of the taxpayer's three prior taxable  
41 years or carried forward to any of the taxpayer's five  
42 subsequent taxable years.

43 [5.] 6. All or any portion of Missouri tax credits  
44 issued in accordance with the provisions of sections 135.350  
45 to 135.362 may be allocated to parties who are eligible  
46 pursuant to the provisions of subsection 1 of this section.  
47 Beginning January 1, 1995, for qualified projects which  
48 began on or after January 1, 1994, an owner of a qualified  
49 Missouri project shall certify to the director the amount of  
50 credit allocated to each taxpayer. The owner of the project  
51 shall provide to the director appropriate information so  
52 that the low-income housing tax credit can be properly  
53 allocated.

54 [6.] 7. In the event that recapture of Missouri low-  
55 income housing tax credits is required pursuant to  
56 subsection 2 of section 135.355, any statement submitted to  
57 the director as provided in this section shall include the  
58 proportion of the state credit required to be recaptured,  
59 the identity of each taxpayer subject to the recapture and  
60 the amount of credit previously allocated to such taxpayer.

61 [7.] 8. The director of the department may promulgate  
62 rules and regulations necessary to administer the provisions

63 of this section. No rule or portion of a rule promulgated  
64 pursuant to the authority of this section shall become  
65 effective unless it has been promulgated pursuant to the  
66 provisions of section 536.024.

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