SECOND REGULAR SESSION

HOUSE BILL NO. 908

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LeVOTA.

Pre-filed December 19, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2633L.01I

AN ACT

To repeal sections 135.478, 135.481, 135.484, 135.487, and 135.530, RSMo, and to enact in lieu thereof five new sections relating to tax credits for distressed communities.

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

Section A. Sections 135.478, 135.481, 135.484, 135.487, and 135.530, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 135.478, 135.481, 135.484, 135.487, and 135.530, to read as follows:

135.478. As used in sections 135.481 to 135.487, the following terms mean:

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

(2) "Director", the director of the department of economic development;

(3) "Distressed community", as defined in section 135.530;

(4) "Eligible costs for a new residence", expenses incurred for property acquisition, development, site preparation other than demolition, surveys, architectural and engineering services and construction and all other necessary and incidental expenses incurred for constructing a new market rate residence, which is or will be owner-occupied, which is not replacing a national register listed or local historic structure; except that, costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;

(5) "Eligible costs for rehabilitation", expenses incurred for the renovation or rehabilitation of an existing residence including site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration,

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

replacements and alterations; except that, costs paid for by the taxpayer with grants or forgivable loans other than tax credits provided pursuant to state or federal governmental programs are ineligible;

(6) "Eligible residence", a single-family residence **or a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences** forty years of age or older, located in this state and not within a distressed community as defined by section 135.530, which is occupied or intended to be or occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is either located within a United States census block group which, if in a metropolitan statistical area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group in a **[**nonmetropolitan**]** **county that is not located in a metropolitan statistical** area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for **[**the nonmetropolitan areas in the state**]** **all counties not located within a metropolitan statistical area**;

(7) "Flood plain", any land or area susceptible to being inundated by water from any source or located in a one hundred-year flood plain area determined by Federal Emergency Management Agency mapping as subject to flooding;

(8) "New residence", a residence constructed on land which if located within a distressed community has either been vacant for at least two years or is or was occupied by a structure which has been condemned by the local entity in which the structure is located or which, if located outside of a distressed community but within a census block group as described in subdivision (6) or (10) of this section, either replaces a residence forty years of age or older demolished for purposes of constructing a replacement residence, or which is constructed on vacant property which has been classified for not less than forty continuous years as residential or utility, commercial, railroad or other real property pursuant to article X, section 4(b) of the Missouri Constitution, as defined in section 137.016, RSMo; except that, no new residence shall be constructed in a flood plain or on property used for agricultural purposes **except as otherwise provided herein**. **[**In a distressed community,**]** The term "new residence" shall include condominiums, owner-occupied units or other units intended to be owner-occupied in multiple unit structures **or as separate adjacent single-family units**;

(9) "Project", new construction, rehabilitation or substantial rehabilitation of a residence **or residences, whether comprised of one structure containing multiple single-family residences or multiple individual structures** that **[**qualifies**]** **qualify** for a tax credit pursuant to sections 135.475 to 135.487;

(10) "Qualifying residence", a single-family residence, forty years of age or older, located in this state which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is **either** located **within a United States census block group which, if** in a metropolitan statistical area **[**or nonmetropolitan statistical area within a United States census block group which has a median household income of less than seventy percent of the median household income for the metropolitan statistical area or nonmetropolitan area, respectively**], has a median household income of less than seventy percent of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group that is located in a county that is not located in a metropolitan statistical area, has a median household income of less than seventy percent of the median household income for all counties not located within a metropolitan statistical area** or which is located within a distressed community. A qualifying residence shall include a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences which is located within a distressed community;

(11) "Substantial rehabilitation", rehabilitation the costs of which exceed fifty percent of either the purchase price or the cost basis of the structure immediately prior to rehabilitation; provided that, the structure is at least fifty years old notwithstanding any provision of sections 135.475 to 135.487 to the contrary;

(12) "Tax liability", the tax due pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo;

(13) "Taxpayer", any person, partnership, corporation, trust or limited liability company.

135.481. 1. (1) Any taxpayer who incurs eligible costs for a new residence located in a distressed community or within a census block group as described in subdivision **(6) or** (10) of section 135.478, or for a multiple unit condominium described in subdivision (2) of this subsection, shall receive a tax credit equal to **[**fifteen**] twenty** percent of such costs against his or her tax liability. The tax credit shall not exceed forty thousand dollars per new residence in any ten-year period.

(2) For the purposes of this section, a "multiple unit condominium" is one that is intended to be owner occupied, which is constructed on property subject to an industrial development contract as defined in section 100.310, RSMo, and which lies within an area with a city zoning classification of urban redevelopment district established after January 1, 2000, and before December 31, 2001, and which is constructed in connection with the qualified rehabilitation of a structure more than ninety years old eligible for the historic structures rehabilitation tax credit described in sections 253.545 to 253.559, RSMo, and is under way by January 1, 2000, and completed by January 1, 2002.

2. **[**Any taxpayer who incurs eligible costs for a new residence located within a census block as described in subdivision (6) of section 135.478 shall receive a tax credit equal to fifteen percent of such costs against his or her tax liability. The tax credit shall not exceed twenty-five thousand dollars per new residence in any ten-year period.

3.**]** Any taxpayer who is not performing substantial rehabilitation and who incurs eligible costs for rehabilitation of an eligible residence or a qualifying residence shall receive a tax credit equal to twenty-five percent of such costs against his or her tax liability. The minimum eligible costs for rehabilitation of an eligible residence shall be ten thousand dollars. The minimum eligible costs for rehabilitation of a qualifying residence shall be five thousand dollars. The tax credit shall not exceed twenty-five thousand dollars in any ten-year period.

[4.**] 3.** Any taxpayer who incurs eligible costs for substantial rehabilitation of a qualifying residence shall receive a tax credit equal to thirty-five percent of such costs against his or her tax liability. The minimum eligible costs for substantial rehabilitation of a qualifying residence shall be ten thousand dollars. The tax credit shall not exceed seventy thousand dollars in any ten-year period.

[5.**] 4.** A taxpayer shall be eligible to receive tax credits for new construction or rehabilitation pursuant to only one subsection of this section.

[6.**] 5.** No tax credit shall be issued pursuant to this section for any structure which is in violation of any municipal or county property, maintenance or zoning code.

[7.**] 6.** No tax credit shall be issued pursuant to sections 135.475 to 135.487 for the construction or rehabilitation of rental property.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax credits in any given year, eight million dollars shall be set aside for projects in areas described in subdivision (6) of section 135.478 and eight million dollars for projects in areas described in subdivision (10) of section 135.478. The maximum tax credit for a project consisting of multiple-unit qualifying residences in a distressed community **and commenced before August 28, 2004,** shall not exceed three million dollars**, and the maximum tax credit for a project commenced on or after August 28, 2004, shall not exceed one million five hundred thousand dollars**. **If, by October first of any calendar year, the director has issued all eight million dollars of tax credits allowed for projects in areas described in subdivision (6) of section 135.478, but not for projects in areas described in subdivision (10) of section 135.478, or vice versa, the director shall reallocate seventy percent of any credits not allocated to finally approved applications for issuance to taxpayers which:**

(1) Are engaged in projects in the area in which tax credits totaling eight million dollars have already been issued for the same year; and

(2) Have already applied for, but have not yet been issued, tax credits pursuant to section 135.487 for the same year.

Reallocated credits shall be issued pursuant to section 135.487; except that, the maximum reallocated tax credit for any project shall not exceed five hundred thousand dollars.

2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit and the value of the credit.

3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed in addition to any other state tax credits, with the exception of the historic structures rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, RSMo, which insofar as sections 135.475 to 135.487 are concerned may be claimed only in conjunction with the tax credit allowed pursuant to subsection **[**4**] 3** of section 135.481. In order for a taxpayer eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant to subsection **[**4**] 3** of section 135.481, the taxpayer must comply with the requirements of sections 253.545 to 253.559, RSMo, and in such cases, the amount of the tax credit pursuant to subsection **[**4**] 3** of section 135.481 shall be limited to the lesser of twenty percent of the taxpayer's eligible costs or forty thousand dollars.

135.487. 1. To obtain any credit allowed pursuant to sections 135.475 to 135.487, a taxpayer shall submit to the department, for preliminary approval, an application for tax credit. The director shall, upon final approval of an application and presentation of acceptable proof of substantial completion of construction, issue the taxpayer a certificate of tax credit. **In the case of projects involving the new construction, rehabilitation or substantial rehabilitation of more than one residence, one application for tax credit may be submitted to the department for preliminary approval for the entire project, and the director shall issue the taxpayer a certificate of tax credit upon final approval of an application and presentation of acceptable proof of substantial completion of construction for each individual residence rather than delaying issuance of a tax credit pursuant to sections 135.475 to 135.487 until substantial completion of the entire project.** The director shall issue all credits allowed pursuant to sections 135.475 to 135.487 in the order the applications are received. In the case of a taxpayer other than an owner-occupant, the director shall not delay the issuance of a tax credit pursuant to sections 135.475 to 135.487 until the sale of a residence at market rate for owner-occupancy. A taxpayer, taxpayer other than an owner-occupant who receives a certificate of tax credit pursuant to sections 135.475 to 135.487 shall, within thirty days of the date of the sale of a residence, furnish to the director satisfactory proof that such residence was sold at market rate for owner-occupancy. If the director reasonably determines that a residence was not in good faith intended for long-term owner occupancy, the director make revoke any tax credits issued and seek recovery of any tax credits issued pursuant to section 620.017, RSMo.

2. The department may cooperate with a municipality or a county in which a project is located to help identify the location of the project, the type and eligibility of the project, the estimated cost of the project and the completion date of the project.

3. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of sections 135.475 to 135.487. 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.

4. The department shall conduct annually a comprehensive program evaluation illustrating where the tax credits allowed pursuant to sections 135.475 to 135.487 are being utilized, explaining the economic impact of such program and making recommendations on appropriate program modifications to ensure the program's success.

135.530. For the purposes of sections 100.010, 100.710 and 100.850, RSMo, sections 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530 and 135.545, section 215.030, RSMo, sections 348.300 and 348.302, RSMo, and sections 620.1400 to 620.1460, RSMo, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the last decennial census, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least [two thousand] five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the last decennial census. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the last decennial census or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the last decennial census. **In metropolitan statistical areas, the definition shall include areas that are designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1,**

1986, but will not include expansions of such state enterprise zones done after March 16, 1988.