

FIRST REGULAR SESSION

HOUSE BILL NO. 779

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ROBB (Sponsor), WELLS, FLOOK, LOWE (44), RUCKER,
BAKER (25), BEARDEN AND SUTHERLAND (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

1809L.011

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to new market tax credits.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be
2 known as section 135.211, to read as follows:

**135.211. 1. The general assembly hereby finds and declares that the health, safety,
2 and welfare of the people of this state are dependent upon the continued encouragement,
3 development, growth, and expansion of the private sector within this state, especially
4 increased access to capital in certain disadvantaged areas of the state. Therefore, it is
5 declared to be the purpose of this section to encourage and attract private sector capital
6 investment to such areas within this state.**

7 **2. As used in this section, the following terms shall mean:**

8 **(1) "Adjusted purchase price", the product of the amount paid to the issuer of a
9 qualified equity investment for such qualified equity investment and, a fraction, the
10 numerator of which is the dollar amount of qualified low-income community investments
11 held by the issuer of the qualified equity investment in this state, determined as of the
12 immediately preceding credit allowance date and the denominator of which is the total
13 dollar amount of qualified low-income community investments made by the issuer,
14 determined immediately preceding the credit allowance date. The issuer of the qualified
15 equity investment shall certify to the department of revenue the anticipated dollar amount**

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

16 of such investments to be made in the first twelve-month period following the initial credit
17 allowance date. If on the second credit allowance date the actual dollar amount of such
18 investment is lower than the amount so estimated, the department of revenue shall
19 recapture the difference from the person who took the credit under this section;

20 (2) "Applicable percentage", three percent for each credit allowance date;

21 (3) "Credit allowance date", with respect to any qualified equity investment:

22 a. The date on which such investment is initially made; and

23 b. Each of the six anniversary dates of such date thereafter;

24 (4) "Person", as defined in section 144.010, RSMo.

25 (5) "Qualified equity investment", the same meaning as given in 26 U.S.C. Section
26 45D of the United States Internal Revenue Code of 1986, as amended.

27 3. A person, who holds a qualified equity investment on a credit allowance date of
28 such investment which occurs during the taxable year, may claim a credit against the
29 person's Missouri income tax owed under chapter 143, RSMo, with the exception of
30 withholding or franchise tax under chapter 147, RSMo, for such taxable year equal to the
31 applicable percentage of the adjusted purchase price paid to the issuer of such qualified
32 equity investment for such investment for such credit allowance date.

33 4. The total of all such credits taken by any person under this section shall not
34 exceed such person's total combined income and franchise tax liability for that taxable
35 year. Any credits that are not used in the first taxable year eligible for use shall carry
36 forward and be eligible for use in each of the next two taxable years.

37 5. If any amount of the federal tax credit available with respect to a qualified equity
38 investment which is eligible for a credit under this section is recaptured under the
39 provisions of 26 U.S.C. Section 45D of the United States Internal Revenue Code of 1986,
40 as amended, the department of revenue shall have the right to recapture a portion of the
41 credit granted with respect to such qualified equity investment under this section. The
42 percentage of the credit granted under this section that may be recaptured under this
43 section shall be equal to the percentage of the total federal credit earned with respect to
44 such qualified equity investment that is recaptured under 26 U.S.C. Section 45D of the
45 United States Internal Revenue Code of 1986, as amended.

46 6. The department of revenue shall promulgate such rules and regulations as may
47 be necessary to carry out the purpose of this section, including rules to facilitate the
48 transfer of credits earned under this section. Any rule or portion of a rule, as that term is
49 defined in section 536.010, RSMo, that is created under the authority delegated in this
50 section shall become effective only if it complies with and is subject to all of the provisions
51 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter

52 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
53 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
54 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
55 **authority and any rule proposed or adopted after August 28, 2005, shall be invalid and**
56 **void.**