

SECOND REGULAR SESSION

HOUSE BILL NO. 1365

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SHOEMYER (Sponsor), HENKE, SWINGER, HARRIS (110),
WITTE, ROBINSON, KUESSNER, BRINGER, BAKER (25) AND WHORTON (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

4333L.02I

AN ACT

To repeal sections 100.255, 100.291, and 100.297, RSMo, and to enact in lieu thereof three new sections relating to the Missouri development finance board.

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

Section A. Sections 100.255, 100.291, and 100.297, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 100.255, 100.291, and 100.297, to read
3 as follows:

100.255. As used in sections 100.250 to 100.297, the following terms mean:

2 (1) "Board", the Missouri development finance board created by section 100.265;

3 (2) "Borrower", any person, partnership, public or private corporation, association,
4 development agency or any other entity eligible for funding under sections 100.250 to 100.297,
5 **but shall not include any professional athletic team as defined in section 143.183, RSMo,**
6 **or any sports authority, including but not limited to the sports authorities created under**
7 **sections 64.920 and 67.650, RSMo;**

8 (3) "Development agency", any of the following:

9 (a) A port authority established pursuant to chapter 68, RSMo;

10 (b) The bi-state development agencies established pursuant to sections 70.370 to 70.440,
11 RSMo, and sections 238.010 to 238.100, RSMo;

12 (c) A land clearance for redevelopment authority established pursuant to sections 99.300
13 to 99.660, RSMo;

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.

- 14 (d) A county, city, incorporated town or village or other political subdivision or public
15 body of this state;
- 16 (e) A planned industrial expansion authority established pursuant to sections 100.300
17 to 100.620;
- 18 (f) An industrial development corporation established pursuant to sections 349.010 to
19 349.105, RSMo;
- 20 (g) A real property tax increment financing commission established pursuant to sections
21 99.800 to 99.865, RSMo;
- 22 (h) Any other governmental, quasi-governmental or quasi-public corporation or entity
23 created by state law or by resolution adopted by the governing body of a development agency
24 otherwise described in paragraphs (a) through (g) of this subdivision, **but shall not include any**
25 **sports authority, including but not limited to the sports authorities created under sections**
26 **64.920 and 67.650, RSMo;**
- 27 (4) "Development and reserve fund", the industrial development and reserve fund
28 established pursuant to section 100.260;
- 29 (5) "Export finance fund", the Missouri export finance fund established pursuant to
30 section 100.260;
- 31 (6) "Export trade activities" includes, but is not limited to, consulting, international
32 market research, advertising, marketing, insurance, product research and design, legal assistance,
33 transportation, including trade documentation and freight forwarding, communication, and
34 processing of foreign orders to and for exporters and foreign purchases and warehousing, when
35 undertaken to export or facilitate the export of goods or services produced or assembled in this
36 state;
- 37 (7) "Guarantee fund", the industrial development guarantee fund established by section
38 100.260;
- 39 (8) "Infrastructure development fund", the infrastructure development fund established
40 under section 100.263;
- 41 (9) "Infrastructure facilities", the highways, streets, bridges, water supply and distribution
42 systems, mass transportation facilities and equipment, telecommunication facilities, jails and
43 prisons, sewers and sewage treatment facilities, wastewater treatment facilities, airports,
44 railroads, reservoirs, dams and waterways in this state, acquisition of blighted real estate and the
45 improvements thereon, demolition of existing structures and preparation of sites in anticipation
46 of development, public facilities, and any other improvements provided by any form of
47 government or development agency, **but shall not include any such facilities for use by any**
48 **professional athletic team as defined in section 143.183, RSMo, or any sports authority,**

49 **including but not limited to the sports authorities created under sections 64.920 and 67.650,**
50 **RSMo;**

51 (10) "Jobs now fund", the jobs now fund established under section 100.260;

52 (11) "Jobs now projects", the purchase, construction, extension, and improvement of real
53 estate, plants, buildings, structures, or facilities, whether or not now in existence, used or to be
54 used primarily as infrastructure facilities or public facilities. When any entity provides a certified
55 design or operation plan which is demonstrably less than the usual and customary average
56 industry determination of cost for installation, construction, purchasing, extension, and
57 improvement of real estate, manufacturing facilities, buildings, structures or facilities, including
58 public facilities, then the entity or company providing such service may receive payment in an
59 amount equal to the usual and customary fee for such project plus additional compensation equal
60 to two times the percentage by which the cost of such aforementioned criteria of such facility is
61 less than the usual and customary average industrial determination of cost for installation,
62 construction, materials, extension and improvement of real estate, manufacturing facilities,
63 buildings, structures, or facilities, including public facilities. Such entity shall also pay to such
64 company providing such aforementioned service compensation equal to twenty-five percent of
65 the amount of any annual operational costs which are lower than the customary average industry
66 determination of cost for operation for such facility, procedure, or service for a period of time
67 equal to one-fourth the design lifetime of such entity or five years whichever is less;

68 (12) "Participating lender", a lender authorized by the board to participate with the board
69 in the making of a loan or to make loans the repayment of which is secured by the development
70 and reserve fund;

71 (13) "Project", the purchase, construction, extension, and improvement of real estate,
72 plants, buildings, structures or facilities, whether or not now in existence, used or to be used
73 primarily as a factory, assembly plant, manufacturing plant, fabricating plant, distribution center,
74 warehouse building, office building, port terminal or facility, transportation and transfer facility,
75 industrial plant, processing plant, commercial or agricultural facility, nursing or retirement
76 facility or combination thereof, recreational facility **other than a facility for the use by any**
77 **professional athletic team as defined in section 143.183, RSMo, or by any sports authority,**
78 **including but not limited to the sports authorities created under sections 64.920 and 67.650,**
79 **RSMo,** cultural facility, public facilities, job training or other vocational training facility,
80 infrastructure facility, video-audio telecommunication conferencing facility, office building,
81 facility for the prevention, reduction, disposal or control of pollution, sewage or solid waste,
82 facility for conducting export trade activities, or research and development building in
83 connection with any of the facilities defined as a project in this subdivision. The term "project"
84 shall also include any improvements, including, but not limited to, road or rail construction,

85 alteration or relocation, and construction of facilities to provide utility service for any of the
86 facilities defined as a project under this subdivision, along with any fixtures, equipment, and
87 machinery, and any demolition and relocation expenses used in connection with any such
88 projects and any capital used to promote and facilitate such facilities and notes payable from
89 anticipated revenue issued by any development agency;

90 (14) "Public facility", any facility or improvements available for use by the general
91 public including facilities for which user or other fees are charged on a nondiscriminatory basis,
92 **but shall not include any facility for use by a professional athletic team as defined in**
93 **section 143.183, RSMo, or by any sports authority, including but not limited to the sports**
94 **authorities created under sections 64.920 and 67.650, RSMo.**

100.291. 1. The board may issue guarantees using moneys in the guarantee fund for
2 bonds or notes issued by the board or by development agencies when the board makes the
3 following findings:

4 (1) That the owners and lessees, if any, of the projects to be financed are found to be
5 financially responsible, and that sufficient income may reasonably be expected to be derived
6 from the projects to amortize the interest and principal amount of the bonds or notes;

7 (2) That the projects will benefit the economy of this state; **and**

8 **(3) That the guarantees have been approved by concurrent resolution of the general**
9 **assembly, within the first thirty calendar days of the regular session following notice by the**
10 **board to the speaker of the house of representatives, the president pro tempore of the**
11 **senate, the chair of the house budget committee, and the chair of the senate appropriations**
12 **committee, of the proposed guarantees.**

13 2. The board shall evaluate the financial condition and business history of project owners
14 and lessees, and may require the attachment to each application for guarantee under sections
15 100.250 to 100.297 a financial report and evaluation by an independent certified public
16 accounting firm, in addition to such examination and evaluation as the board may make, in
17 determining whether the owner or lessee meets prescribed minimum standards and qualifications
18 before entering into any guarantee under sections 100.250 to 100.297.

19 3. Every development agency requesting a bond or note guarantee under sections
20 100.250 to 100.297 shall submit to the board supporting documents, instruments, and other
21 evidence showing the circumstances surrounding the issuance of the bonds or notes, and an
22 initial guarantee fee and a premium payment as required by the board, to the guarantee fund.
23 Such fees and payments may be collected by the development agency from the owners or lessees
24 of the projects involved.

100.297. 1. The board may authorize a tax credit, as described in this section, to the
2 owner of any revenue bonds or notes issued by the board pursuant to the provisions of sections

3 100.250 to 100.297, for infrastructure facilities as defined in subdivision (9) of section 100.255,
4 if, prior to the issuance of such bonds or notes, the board determines that:

5 (1) The availability of such tax credit is a material inducement to the undertaking of the
6 project in the state of Missouri and to the sale of the bonds or notes;

7 (2) The loan with respect to the project is adequately secured by a first deed of trust or
8 mortgage or comparable lien, or other security satisfactory to the board; **and**

9 (3) **That the tax credits have been approved by concurrent resolution of the general**
10 **assembly, within the first thirty calendar days of the regular session following notice by the**
11 **board to the speaker of the house of representatives, the president pro tempore of the**
12 **senate, the chair of the house budget committee, and the chair of the senate appropriations**
13 **committee, of the proposed tax credits.**

14 2. Upon making the determinations specified in subsection 1 of this section, the board
15 may declare that each owner of an issue of revenue bonds or notes shall be entitled, in lieu of any
16 other deduction with respect to such bonds or notes, to a tax credit against any tax otherwise due
17 by such owner pursuant to the provisions of chapter 143, RSMo, excluding withholding tax
18 imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in
19 the amount of one hundred percent of the unpaid principal of and unpaid interest on such bonds
20 or notes held by such owner in the taxable year of such owner following the calendar year of the
21 default of the loan by the borrower with respect to the project. The occurrence of a default shall
22 be governed by documents authorizing the issuance of the bonds. The tax credit allowed
23 pursuant to this section shall be available to the original owners of the bonds or notes or any
24 subsequent owner or owners thereof. Once an owner is entitled to a claim, any such tax credits
25 shall be transferable as provided in subsection 7 of section 100.286. Notwithstanding any
26 provision of Missouri law to the contrary, any portion of the tax credit to which any owner of a
27 revenue bond or note is entitled pursuant to this section which exceeds the total income tax
28 liability of such owner of a revenue bond or note shall be carried forward and allowed as a credit
29 against any future taxes imposed on such owner within the next ten years pursuant to the
30 provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to
31 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. The eligibility of the owner of any
32 revenue bond or note issued pursuant to the provisions of sections 100.250 to 100.297 for the
33 tax credit provided by this section shall be expressly stated on the face of each such bond or note.
34 The tax credit allowed pursuant to this section shall also be available to any financial institution
35 or guarantor which executes any credit facility as security for bonds issued pursuant to this
36 section to the same extent as if such financial institution or guarantor was an owner of the bonds
37 or notes, provided however, in such case the tax credits provided by this section shall be
38 available immediately following any default of the loan by the borrower with respect to the

39 project. In addition to reimbursing the financial institution or guarantor for claims relating to
40 unpaid principal and interest, such claim may include payment of any unpaid fees imposed by
41 such financial institution or guarantor for use of the credit facility.

42 3. The aggregate principal amount of revenue bonds or notes outstanding at any time
43 with respect to which the tax credit provided in this section shall be available shall not exceed
44 fifty million dollars.

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