

FIRST REGULAR SESSION

# HOUSE BILL NO. 1177

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARRIS (23).

Read 1st time March 27, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2231L.01I

### AN ACT

To amend chapters 135 and 620, RSMo, by adding thereto two new sections relating to angel investments.

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

Section A. Chapters 135 and 620, RSMo, are amended by adding thereto two new sections, to be known as sections 135.455 and 620.2000, to read as follows:

**135.455. 1. There is hereby established an "Angel Investment Tax Credit" to allow individual investors to claim a nonrefundable credit against Missouri income tax equal to forty percent of the amount the individual invests in a qualified angel investment.**

**2. As used in this section and section 620.2000, RSMo, the following terms mean:**

**(1) "Bona fide angel investment", a purchase of an equity interest, or any other expenditure, as determined by rule under 620.2000, RSMo, that is made by any of the following:**

**(a) A person who reviews new businesses or proposed new businesses for potential investment of the person's money;**

**(b) A network of persons who satisfy this subdivision;**

**(2) "Claimant", an individual who files a claim under this subsection;**

**(3) "Person", a partnership or limited liability company that is a nonoperating entity, as determined by the department of economic development, a natural person, or fiduciary;**

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.

15           (4) "Qualified new business venture", a business that is certified under section  
16 **620.2000, RSMo;**

17           (5) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,  
18 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due  
19 under chapter 147, 148, or 153, RSMo;

20           (6) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
21 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the  
22 tax imposed in chapter 147, 148, or 153, RSMo.

23           3. For all taxable years beginning on or after January 1, 2008, a taxpayer shall be  
24 allowed a tax credit for an amount equal to forty percent of the claimant's bona fide angel  
25 investment made directly in a qualified new business venture in the taxable year for which  
26 the credit is claimed. If the amount of the tax credit issued exceeds the amount of the  
27 taxpayer's state tax liability for the tax year for which the credit is claimed, the difference  
28 shall not be refundable but may be carried forward to the taxpayer's next taxable year.  
29 No tax credit granted under this section shall be transferred, sold, or assigned. The  
30 cumulative amount of tax credits which may be issued under this section in any one  
31 calendar year shall not exceed three million dollars, and the total amount issued under this  
32 section shall not exceed thirty million dollars.

33           4. (1) The maximum amount of a claimant's investment that may be used as the  
34 basis for a credit under this subsection is five hundred thousand dollars for each  
35 investment made directly in a business certified under section 620.2000, RSMo.

36           (2) For a claimant who is a nonresident or part-time resident of this state and who  
37 is a single person or a married person filing a separate return, the credit for which the  
38 claimant is eligible under subsection 3 of this section shall be multiplied by a fraction, the  
39 numerator of which is the individual's Missouri adjusted gross income and the  
40 denominator of which is the individual's federal adjusted gross income. If a claimant is  
41 married and files a joint return, and if the claimant or the claimant's spouse, or both, are  
42 nonresidents or part-time residents of this state, the credit for which the claimant is eligible  
43 under subsection 3 shall be multiplied by a fraction, the numerator of which is the couple's  
44 joint Missouri adjusted gross income, the denominator of which is the couple's federal  
45 adjusted gross income.

46           5. If an investment for which a claimant claims a credit under subsection 3 of this  
47 section is held by the claimant for less than one year, the claimant shall pay to the  
48 department of revenue, in the manner prescribed by such department, the amount of the  
49 credit that the claimant received related to the investment.

50           **6. The department of revenue may promulgate rules to implement the provisions**  
51 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010,**  
52 **RSMo, that is created under the authority delegated in this section shall become effective**  
53 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**  
54 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**  
55 **nonseverable and if any of the powers vested with the general assembly pursuant to**  
56 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
57 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
58 **rule proposed or adopted after August 28, 2007, shall be invalid and void.**

59           **7. Under section 23.253, RSMo, of the Missouri Sunset Act:**

60           **(1) The provisions of the new program authorized under this section shall**  
61 **automatically sunset on December thirty-first six years after the effective date of this**  
62 **section unless reauthorized by an act of the general assembly; and**

63           **(2) If such program is reauthorized, the program authorized under this section**  
64 **shall automatically sunset on December thirty-first twelve years after the effective date of**  
65 **the reauthorization of this section; and**

66           **(3) This section shall terminate on September first of the calendar year immediately**  
67 **following the calendar year in which the program authorized under this section is sunset.**

**620.2000. 1. There is hereby established within the department of economic**  
2 **development an "Angel Investment Program" to certify businesses for purposes of section**  
3 **135.455, RSMo. A business desiring certification shall submit an application to the**  
4 **department of economic development in each taxable year for which the business desires**  
5 **certification. Unless otherwise provided under the rules of the department of economic**  
6 **development, a business may be certified under this subsection, and may maintain such**  
7 **certification, only if the business satisfies all of the following conditions:**

8           **(1) It has its headquarters in this state;**

9           **(2) At least fifty-one percent of the employees employed by the business are**  
10 **employed in this state;**

11           **(3) It is engaged in, or has committed to engage in, manufacturing, agriculture, or**  
12 **processing or assembling products and conducting research and development or**  
13 **developing a new product or business process;**

14           **(4) It is not engaged in real estate development, insurance, banking, lending,**  
15 **lobbying, political consulting, professional services provided by attorneys, accountants,**  
16 **business consultants, physicians, or health care consultants, wholesale or retail trade,**  
17 **leisure, hospitality, transportation, or construction;**

18           **(5) It has less than one hundred employees;**

- 19           (6) It has been in operation in this state for not more than ten consecutive years;
- 20           (7) It has not received more than one million dollars in investments that have
- 21 qualified for tax credits under section 135.455, RSMo;
- 22           (8) It has not received aggregate private equity investment in cash of more than ten
- 23 million dollars prior to being certified under this subsection.
- 24           2. The department of economic development may certify only investment fund
- 25 managers that commit to consider placing investments in businesses certified under
- 26 subsection 1 of this section.
- 27           3. (1) The department of economic development shall maintain a list of businesses
- 28 certified under subsection 1 of this section and shall permit public access to the list through
- 29 the department's Internet web site.
- 30           (2) The department of economic development shall notify the department of
- 31 revenue of every certification issued under subsection 1 of this section and the date on
- 32 which any such certification is revoked or expires;
- 33           (3) No later than September fifteenth of each year, the department of economic
- 34 development shall submit a report to the general assembly listing all of the following
- 35 information:
- 36           (a) The total amount of tax credits claimed under section 135.455, RSMo, per
- 37 taxable year;
- 38           (b) The name of each business in which investments qualifying for such tax credits
- 39 were made, the amount of such tax credits, and the amount of such investments;
- 40           (c) Any other information the department of economic development considers
- 41 reasonable to include.
- 42           4. The department of economic development, in conjunction with the department
- 43 of revenue, shall promulgate rules to administer this section. The rules shall further define
- 44 "bona fide angel investment" for purposes of section 135.455, RSMo. Any rule or portion
- 45 of a rule, as that term is defined in section 536.010, RSMo, that is created under the
- 46 authority delegated in this section shall become effective only if it complies with and is
- 47 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
- 48 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
- 49 vested with the general assembly under chapter 536, RSMo, to review, to delay the effective
- 50 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
- 51 grant of rulemaking authority and any rule proposed or adopted after August 28, 2007,
- 52 shall be invalid and void.
- 53           5. Under section 23.253, RSMo, of the Missouri Sunset Act:

54           (1) The provisions of the new program authorized under this section shall  
55 automatically sunset on December thirty-first six years after the effective date of this  
56 section unless reauthorized by an act of the general assembly; and

57           (2) If such program is reauthorized, the program authorized under this section  
58 shall automatically sunset on December thirty-first twelve years after the effective date of  
59 the reauthorization of this section; and

60           (3) This section shall terminate on September first of the calendar year immediately  
61 following the calendar year in which the program authorized under this section is sunset.

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