

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Bill No. 1593, Page 1, Section A, Line 2, by inserting after all of said lines the following:

“135.680. 1. As used in this section, the following terms shall mean:

(1) "Adjusted purchase price", the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

(2) "Applicable percentage", zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

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

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) "Long-term debt security", any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

(5) "Qualified active low-income community business", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

(6) "Qualified community development entity", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

(7) "Qualified equity investment", any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after September 4, 2007, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section. This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

(8) "Qualified low-income community investment", any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph a. of paragraph (b)

1 of subdivision (1) of this subsection shall be ten million dollars whether issued to one or several
2 qualified community development entities;

3 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding
4 withholding tax imposed in sections 143.191 to 143.265, or otherwise due under section 375.916
5 or chapter 147, 148, or 153;

6 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
7 excluding withholding tax imposed in sections 143.191 to 143.265, or the tax imposed in section
8 375.916 or chapter 147, 148, or 153.

9 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits
10 under this section. On each credit allowance date of such qualified equity investment the
11 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit
12 during the taxable year including such credit allowance date. The tax credit amount shall be equal
13 to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified
14 equity investment. The amount of the tax credit claimed shall not exceed the amount of the
15 taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax credit
16 claimed under this section shall be refundable or transferable. Tax credits earned by a partnership,
17 limited liability company, S-corporation, or other pass-through entity may be allocated to the
18 partners, members, or shareholders of such entity for their direct use in accordance with the
19 provisions of any agreement among such partners, members, or shareholders. Any amount of tax
20 credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried
21 forward to any of the taxpayer's five subsequent taxable years. The department of economic
22 development shall limit the monetary amount of qualified equity investments permitted under this
23 section to a level necessary to limit tax credit utilization at no more than twenty-five million
24 dollars of tax credits in any fiscal year. Such limitation on qualified equity investments shall be
25 based on the anticipated utilization of credits without regard to the potential for taxpayers to carry
26 forward tax credits to later tax years.

27 3. The issuer of the qualified equity investment shall certify to the department of
28 economic development the anticipated dollar amount of such investments to be made in this state
29 during the first twelve-month period following the initial credit allowance date. If on the second
30 credit allowance date, the actual dollar amount of such investments is different than the amount
31 estimated, the department of economic development shall adjust the credits arising on the second
32 allowance date to account for such difference.

33 4. The department of economic development shall recapture the tax credit allowed under
34 this section with respect to such qualified equity investment under this section if:

35 (1) Any amount of the federal tax credit available with respect to a qualified equity
36 investment that is eligible for a tax credit under this section is recaptured under Section 45D of the

1 Internal Revenue Code of 1986, as amended; or

2 (2) The issuer redeems or makes principal repayment with respect to a qualified equity
3 investment prior to the seventh anniversary of the issuance of such qualified equity investment.
4 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the
5 tax credit on a return.

6 5. The department of economic development shall promulgate rules to implement the
7 provisions of this section, including recapture provisions on a scaled proportional basis, and to
8 administer the allocation of tax credits issued for qualified equity investments, which shall be
9 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined
10 in section 536.010, that is created under the authority delegated in this section shall become
11 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
12 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
13 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
14 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
15 rulemaking authority and any rule proposed or adopted after September 4, 2007, shall be invalid
16 and void.

17 6. [For fiscal years following fiscal year 2010, qualified equity investments shall not be
18 made under this section unless reauthorization is made pursuant to this subsection. For all fiscal
19 years following fiscal year 2010, unless the general assembly adopts a concurrent resolution
20 granting authority to the department of economic development to approve qualified equity
21 investments for the Missouri new markets development program and clearly describing the
22 amount of tax credits available for the next fiscal year, or otherwise complies with the provisions
23 of this subsection, no qualified equity investments may be permitted to be made under this
24 section. The amount of available tax credits contained in such a resolution shall not exceed the
25 limitation provided under subsection 2 of this section. In any year in which the provisions of this
26 section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by
27 general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer
28 who makes a qualified equity investment prior to the expiration of authority to make qualified
29 equity investments from claiming tax credits relating to such qualified equity investment for each
30 applicable credit allowance date.

31 7.] Under section 23.253 of the Missouri sunset act:

32 (1) The provisions of the new program authorized under this section shall automatically
33 sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly;
34 and

35 (2) If such program is reauthorized, the program authorized under this section shall
36 automatically sunset twelve years after the effective date of the reauthorization of this section; and

1 (3) This section shall terminate on September first of the calendar year immediately
2 following the calendar year in which the program authorized under this section is sunset.
3 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity
4 investment prior to sunset of this section under the provisions of section 23.253 from claiming tax
5 credits relating to such qualified equity investment for each credit allowance date.”; and
6
7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.