

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 112, Section 99.1205, by removing all of  
2 said section from the bill and inserting in lieu thereof the following:

3  
4 "99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land  
5 Assemblage Tax Credit Act".

6 2. As used in this section, the following terms mean:

7 (1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental  
8 assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant  
9 structures or any portion thereof, together with site and redevelopment area planning and  
10 engineering costs regarding one or more eligible parcels, and reasonable maintenance costs incurred  
11 to maintain an acquired eligible parcel for a period of [five] twelve years after the acquisition of such  
12 eligible parcel. Acquisition costs shall not include costs for [title insurance and survey], attorney's  
13 fees, relocation costs, fines, or bills from a municipality;

14 (2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation  
15 which has:

16 (a) Incurred, within an eligible project area, acquisition costs for the acquisition of land  
17 sufficient to satisfy the requirements under subdivision (8) of this subsection; and

18 (b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal  
19 authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop an  
20 urban renewal area or a redevelopment area that includes all of an eligible project area or whose  
21 redevelopment plan or redevelopment area, which encompasses all of an eligible project area, has  
22 been approved or adopted under an economic incentive law. In addition to being designated the  
23 redeveloper, the applicant shall have been designated to receive economic incentives only after the  
24 municipal authority has considered the amount of the tax credits in adopting such economic  
25 incentives as provided in subsection 8 of this section. The redevelopment agreement shall provide  
26 that:

27 a. the funds generated through the use or sale of the tax credits issued under this section shall  
28 be used to redevelop the eligible project area;

29 b. No more than seventy-five percent of the urban renewal area identified in the urban  
30 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped by  
31 the applicant; and

32 c. The remainder of the urban renewal area or the redevelopment area shall be redeveloped

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by co-redevelopers or redevelopers to whom the applicant has assigned its redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

(3) "Certificate", a tax credit certificate issued under this section;

(4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to initiate an action in a court of competent jurisdiction to use the power of eminent domain to acquire a parcel within the eligible project area. Condemnation proceedings shall include any and all actions taken after the submission of a notice of intended acquisition to an owner of a parcel within the eligible project area by a municipal authority or any other person or entity under section 523.250;

(5) "Department", the Missouri department of economic development;

(6) "Economic incentive laws", any provision of Missouri law pursuant to which economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment projects approved or adopted which include the use of economic incentives to redevelop the land. Economic incentive laws include, but are not limited to, the land clearance for redevelopment authority law under sections 99.300 to 99.660, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation program under sections 99.1080 to 99.1092;

(7) "Eligible parcel", a parcel:

(a) Which is located within an eligible project area;

(b) Which is to be redeveloped;

(c) On which the applicant has not commenced construction prior to November 28, 2007;

(d) Which has been acquired either directly by the applicant, or on behalf of the applicant through one or more affiliated companies controlled by the applicant or under common ownership with the applicant;

(e) Which has been acquired without the commencement of any condemnation proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel acquired before August 28, 2007, by the applicant from a municipal authority shall not constitute an eligible parcel; and

~~[(e)]~~ (f) On which all outstanding taxes, fines, and bills levied by municipal governments that were levied by the municipality during the time period that the applicant held title to the eligible parcel have been paid in full;

(8) "Eligible project area", an area which shall have satisfied the following requirements:

(a) The eligible project area shall consist of at least seventy-five acres and may include parcels within its boundaries that do not constitute an eligible parcel;

(b) At least eighty percent of the eligible project area shall be located within a Missouri qualified census tract area, as designated by the United States Department of Housing and Urban Development under 26 U.S.C. Section 42, or within a distressed community as that term is defined in section 135.530.

c. Any area including and within one quarter mile of property formerly utilized by the state of Missouri as a penitentiary located in any home rule city with more than forty-one thousand but

1 fewer than forty-seven thousand inhabitants and partially located in any county of the first  
 2 classification with more than seventy thousand but fewer than eighty-three thousand inhabitants.

3 (c) The eligible parcels acquired by the applicant within the eligible project area shall total at  
 4 least fifty acres, which may consist of contiguous and noncontiguous parcels, but shall not include  
 5 any parcel acquired by the applicant from a municipal authority;

6 (d) The average number of parcels per acre in an eligible project area shall be four or more;

7 (e) Less than five percent of the acreage within the boundaries of the eligible project area  
 8 shall consist of owner-occupied residences which the applicant has identified for acquisition under  
 9 the urban renewal plan or the redevelopment plan pursuant to which the applicant was appointed or  
 10 selected as the redeveloper or by which the person or entity was qualified as an applicant under this  
 11 section on the date of the approval or adoption of such plan;

12 (9) "Interest costs", interest, loan fees, and closing costs, any of which relate to or arise out of  
 13 loans relating to acquisition costs, including without limitation, interest, loan fees and closing costs  
 14 associated with the refinancing of loans relating to acquisition costs. Interest costs shall not include  
 15 attorney's fees;

16 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of  
 17 removing trash, and costs of cutting grass and weeds;

18 (11) "Municipal authority", any city, town, village, county, public body corporate and politic,  
 19 political subdivision, or land trust of this state established and authorized to own land within the  
 20 state;

21 (12) "Municipality", any city, town, village, or county;

22 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or  
 23 recorded as the property of, one or more persons or entities;

24 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan or  
 25 urban renewal plan pursuant to which the conditions which provided the basis for an eligible project  
 26 area to be included in a redevelopment plan or urban renewal plan are to be reduced or eliminated by  
 27 redevelopment or rehabilitation; and

28 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement into  
 29 which the applicant entered with a municipal authority and which is the agreement for the  
 30 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant  
 31 was appointed or selected as the redeveloper or by which the person or entity was qualified as an  
 32 applicant under this section; and such appointment or selection shall have been approved by an  
 33 ordinance of the governing body of the municipality, or municipalities, or in the case of any city not  
 34 within a county, the board of aldermen, in which the eligible project area is located. The  
 35 redevelopment agreement shall include a time line for redevelopment of the eligible project area,  
 36 including deadlines for commencement of work and for project completion, and shall provide the  
 37 municipal authority the right to terminate the rights of the redeveloper under the redevelopment  
 38 agreement if such deadlines are not met. The redevelopment agreement shall state that the named  
 39 developer shall be subject to the provisions of chapter 290.

40 3. Subject to the limitations provided in subsection 7 of this section, any applicant shall be  
 41 entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148, except for

1 sections 143.191 to 143.265, in an amount equal to fifty percent of the acquisition costs, and one  
2 hundred percent of the interest costs incurred for a period of [five] twelve years after the acquisition  
3 of an eligible parcel. [No tax credits shall be issued under this section until after January 1, 2008.]

4 4. If the amount of such tax credit exceeds the total tax liability for the year in which the  
5 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be  
6 carried forward for credit against the taxes imposed under chapters 143, 147, and 148 for the  
7 succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall not  
8 be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265. Applicants entitled  
9 to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits granted to a  
10 partnership, a limited liability company taxed as a partnership, or multiple owners of property shall  
11 be passed through to the partners, members, or owners respectively pro rata or pursuant to an  
12 executed agreement among the partners, members, or owners documenting an alternate distribution  
13 method.

14 5. A purchaser, transferee, or assignee of the tax credits authorized under this section may use  
15 acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise imposed under  
16 chapters 143, 147, and 148, except for sections 143.191 to 143.265. A seller, transferor, or assignor  
17 shall perfect such transfer by notifying the department in writing within thirty calendar days  
18 following the effective date of the transfer and shall provide any information as may be required by  
19 the department to administer and carry out the provisions of this section.

20 6. To claim tax credits authorized under this section, an applicant shall submit to the  
21 department an application for a certificate. An applicant shall identify the boundaries of the eligible  
22 project area in the application. The department shall verify that the applicant has submitted a valid  
23 application in the form and format required by the department. The department shall verify that the  
24 municipal authority held the requisite hearings and gave the requisite notices for such hearings in  
25 accordance with the applicable economic incentive act, and municipal ordinances. On [an annual] a  
26 quarterly basis, an applicant may file for the tax credit for the acquisition costs, and for the tax credit  
27 for the interest costs, subject to the limitations of this section. If an applicant applying for the tax  
28 credit meets the criteria required under this section, the department shall issue a certificate in the  
29 appropriate amount. If an applicant receives a tax credit for maintenance costs as a part of the  
30 applicant's acquisition costs, the department shall post on its internet website the amount and type of  
31 maintenance costs and a description of the redevelopment project for which the applicant received a  
32 tax credit within thirty days after the department issues the certificate to the applicant.

33 7. The total aggregate amount of tax credits authorized under this section shall not exceed  
34 ninety-five million dollars. At no time shall the annual amount of the tax credits issued under this  
35 section exceed twenty million dollars. If the tax credits that are to be issued under this section  
36 exceed, in any year, the twenty million dollar limitation, the department shall either:

37 (1) Issue tax credits to the applicant in the amount of twenty million dollars, if there is only  
38 one applicant entitled to receive tax credits in that year; or

39 (2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits in  
40 that year as provided in this subdivision. The department shall determine on an ongoing basis during  
41 the course of each calendar year the amount of tax credits that have been issued to each applicant for

1 each eligible project area during such year, and the amount of tax credits remaining available for  
 2 issuance with respect to such calendar year, if any. Any amount of tax credits, which an applicant is,  
 3 or applicants are, entitled to receive on an annual basis and are not issued due to the twenty million  
 4 dollar limitation, shall be carried forward for the benefit of the applicant or applicants to subsequent  
 5 years. No tax credits provided under this section shall be authorized after August 28, [2013] 2019.  
 6 Any tax credits which have been authorized on or before August 28, [2013] 2019, but not issued,  
 7 may be issued, subject to the limitations provided under this subsection, until all such authorized tax  
 8 credits have been issued.

9 8. Upon issuance of any tax credits pursuant to this section, the department shall report to the  
 10 municipal authority the applicant's name and address, the parcel numbers of the eligible parcels for  
 11 which the tax credits were issued, the itemized acquisition costs and interest costs for which tax  
 12 credits were issued, and the total value of the tax credits issued. The municipal authority and the  
 13 state shall not consider the amount of the tax credits as an applicant's cost, but shall include [the]  
 14 issued tax credits in any subsequent sources and uses and cost benefit analysis reviewed or created  
 15 for the purpose of awarding other economic incentives. The amount of the tax credits shall not be  
 16 considered an applicant's cost in the evaluation of the amount of any award of any other economic  
 17 incentives, but shall be considered in measuring the reasonableness of the rate of return to the  
 18 applicant with respect to such award of other economic incentives. The municipal authority shall  
 19 provide the report to any relevant commission, board, or entity responsible for the evaluation and  
 20 recommendation or approval of other economic incentives to assist in the redevelopment of the  
 21 eligible project area. Tax credits authorized under this section shall constitute redevelopment tax  
 22 credits, as such term is defined under section 135.800, and shall be subject to all provisions  
 23 applicable to redevelopment tax credits provided under sections 135.800 to 135.830.

24 9. Following its initial application for tax credits under this section for eligible costs incurred  
 25 in 2013 or any following year, and during the period it continues to seek tax credits under this  
 26 section, an applicant shall submit to the department on a quarterly basis at the end of each calendar  
 27 quarter a report affirming such applicant's continued qualification as an applicant under this section,  
 28 describing the applicant's progress toward meeting the deadlines for commencement of work and for  
 29 project completion established under its redevelopment agreement with the applicable municipal  
 30 authority, and including copies of any written notices from such municipal authority asserting or  
 31 threatening a termination of such development agreement due to a breach or default in the  
 32 performance of such applicant's obligations under such redevelopment agreement. The department  
 33 shall review annually the eligibility of each applicant to receive tax credits under this section. The  
 34 department shall not issue to an applicant any tax credits provided under this section after the date  
 35 upon which the governing body of the municipality, or municipalities, or in the case of any city not  
 36 within a county, the board of aldermen, makes a finding that the applicant has failed to comply with  
 37 deadlines regarding project commencement or completion or other material provisions of its  
 38 redevelopment agreement with an applicant, and in furtherance of such finding the governing body  
 39 validly adopts an ordinance terminating its redevelopment agreement with the applicant, with the  
 40 result that such applicant no longer satisfies the requirements of paragraph (b) of subdivision (2) of  
 41 subsection 2 of this section. The governing body shall notify the department of the governing body's

1 findings and shall deliver to the department a certified copy of the ordinance terminating such  
2 redevelopment agreement as soon as practicable.

3       10. The department may promulgate rules to implement the provisions of this section. Any  
4 rule or portion of a rule, as that term is defined in section 36.010, that is created under the authority  
5 delegated in this section shall become effective only if it complies with and is subject to all of the  
6 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
7 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to  
8 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
9 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
10 August 28, 2007, shall be invalid and void."; and

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12 Further amend said bill by amending the title, enacting clause, and intersectional references  
13 accordingly.  
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