House ____ **Amendment NO.**____

Offered By

_____________________________________ _____________________________________

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 83, Page 22, Section 92.387, Line 2, by inserting after all of said line the following:

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

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

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

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

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

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

a. the funds generated through the use or sale of the tax credits issued under this section shall

Action Taken____ Date __________________________ be used to redevelop the eligible project area;

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

c. The remainder of the urban renewal area or the redevelopment area shall be redeveloped 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 <u>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;</u>

<u>(e) Which has been acquired</u> without the commencement of any condemnation proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel acquired <u>before</u>

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

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

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

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

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

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

(11) "Municipal authority", any city, town, village, county, public body corporate and politic,

political subdivision, or land trust of this state established and authorized to own land within the state;

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

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

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

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

3. Subject to the limitations provided in subsection 7 of this section, any applicant shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265, in an amount equal to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for a period of [five] twelve years after the acquisition of an eligible parcel. [No tax credits shall be issued under this section until after January 1, 2008.]

4. If the amount of such tax credit exceeds the total tax liability for the year in which the applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed under chapters 143, 147, and 148 for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265. Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits granted to a

partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

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

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

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

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

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

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

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

9. Following its initial application for tax credits under this section for eligible costs incurred in 2013 or any following year, and during the period it continues to seek tax credits under this section, an applicant shall submit to the department on a quarterly basis at the end of each calendar quarter a report affirming such applicant’s continued qualification as an applicant under this section, describing the applicant’s progress toward meeting the deadlines for commencement of work and for project completion established under its redevelopment agreement with the applicable municipal authority, and including copies of any written notices from such municipal authority asserting or threatening a termination of such development agreement due to a breach or default in the performance of such applicant’s obligations under such redevelopment agreement. The department

shall review annually the eligibility of each applicant to receive tax credits under this section. The department shall not issue to an applicant any tax credits provided under this section after the date upon which the governing body of the municipality, or municipalities, or in the case of any city not within a county, the board of aldermen, makes a finding that the applicant has failed to comply with deadlines regarding project commencement or completion or other material provisions of its redevelopment agreement with an applicant, and in furtherance of such finding the governing body validly adopts an ordinance terminating its redevelopment agreement with the applicant, with the result that such applicant no longer satisfies the requirements of paragraph (b) of subdivision (2) of subsection 2 of this section. The governing body shall notify the department of the governing body's findings and shall deliver to the department a certified copy of the ordinance terminating such redevelopment agreement as soon as practicable.

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

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