

FIRST REGULAR SESSION

# HOUSE BILL NO. 1208

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MESSENGER.

2264H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal sections 32.115, 135.352, and 135.481, RSMo, and to enact in lieu thereof three new sections relating to tax credits for housing.

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

Section A. Sections 32.115, 135.352, and 135.481, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 32.115, 135.352, and 135.481, to read as follows:

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

- (1) The annual tax on gross premium receipts of insurance companies in chapter 148;
- (2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030;
- (3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030;
- (4) The tax on other financial institutions in chapter 148;
- (5) The corporation franchise tax in chapter 147;
- (6) The state income tax in chapter 143; and
- (7) The annual tax on gross receipts of express companies in chapter 153.

2. For proposals approved pursuant to section 32.110:

- (1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

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.

16 (2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy  
17 percent may be allowed for contributions to programs where activities fall within the scope of  
18 special program priorities as defined with the approval of the governor in regulations  
19 promulgated by the director of the department of economic development;

20 (3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for  
21 contributions to programs located in any community shall be equal to seventy percent of the total  
22 amount contributed where such community is a city, town or village which has fifteen thousand  
23 or less inhabitants as of the last decennial census and is located in a county which is either  
24 located in:

25 (a) An area that is not part of a standard metropolitan statistical area;

26 (b) A standard metropolitan statistical area but such county has only one city, town or  
27 village which has more than fifteen thousand inhabitants; or

28 (c) A standard metropolitan statistical area and a substantial number of persons in such  
29 county derive their income from agriculture.

30

31 Such community may also be in an unincorporated area in such county as provided in  
32 subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit  
33 of the combined federal and state tax savings to the taxpayer exceed the amount contributed by  
34 the taxpayer during the tax year;

35 (4) Such tax credit allocation, equal to seventy percent of the total amount contributed,  
36 shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000  
37 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit  
38 allocation is committed, the tax credit allocation for such programs shall then be equal to fifty  
39 percent credit of the total amount contributed. Regulations establishing special program  
40 priorities are to be promulgated during the first month of each fiscal year and at such times  
41 during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty  
42 thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit  
43 shall be approved for any bank, bank and trust company, insurance company, trust company,  
44 national bank, savings association, or building and loan association for activities that are a part  
45 of its normal course of business. Any tax credit not used in the period the contribution was made  
46 may be carried over the next five succeeding calendar or fiscal years until the full credit has been  
47 claimed. Except as otherwise provided for proposals approved pursuant to section 32.111,  
48 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to  
49 sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six  
50 million shall be credits allowed pursuant to section 135.460. If six million dollars in credits are

51 not approved, then the remaining credits may be used for programs approved pursuant to sections  
52 32.100 to 32.125;

53 (5) The credit may exceed two hundred fifty thousand dollars annually and shall not be  
54 limited if community services, crime prevention, education, job training, physical revitalization  
55 or economic development, as defined by section 32.105, is rendered in an area defined by federal  
56 or state law as an impoverished, economically distressed, or blighted area or as a neighborhood  
57 experiencing problems endangering its existence as a viable and stable neighborhood, or if the  
58 community services, crime prevention, education, job training, physical revitalization or  
59 economic development is limited to impoverished persons.

60 3. For proposals approved pursuant to section 32.111:

61 (1) The amount of the tax credit shall not exceed fifty-five percent of the total amount  
62 invested in affordable housing assistance activities or market rate housing in distressed  
63 communities as defined in section 135.530 by a business firm. Whenever such investment is  
64 made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits  
65 may be claimed only where the loan or equity investment is accompanied by a donation which  
66 is eligible for federal income tax charitable deduction, and where the total value of the tax credits  
67 herein plus the value of the federal income tax charitable deduction is less than or equal to the  
68 value of the donation. Any tax credit not used in the period for which the credit was approved  
69 may be carried over the next ten succeeding calendar or fiscal years until the full credit has been  
70 allowed. If the affordable housing units or market rate housing units in distressed communities  
71 for which a tax is claimed are within a larger structure, parts of which are not the subject of a tax  
72 credit claim, then expenditures applicable to the entire structure shall be reduced on a prorated  
73 basis in proportion to the ratio of the number of square feet devoted to the affordable housing  
74 units or market rate housing units in distressed communities, for purposes of determining the  
75 amount of the tax credit. The total amount of tax credit granted for programs approved pursuant  
76 to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed two million dollars,  
77 to be increased by no more than two million dollars each succeeding fiscal year, until the total  
78 tax credits that may be approved reaches ten million dollars in any fiscal year;

79 (2) For any year during the compliance period indicated in the land use restriction  
80 agreement, the owner of the affordable housing rental units for which a credit is being claimed  
81 shall certify to the commission that all tenants renting claimed units are income eligible for  
82 affordable housing units and that the rentals for each claimed unit are in compliance with the  
83 provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit  
84 the records and accounts of the owner to verify such certification;

85 (3) In the case of owner-occupied affordable housing units, the qualifying owner  
86 occupant shall, before the end of the first year in which credits are claimed, certify to the

87 commission that the occupant is income eligible during the preceding two years, and at the time  
88 of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further  
89 certify to the commission, before the end of the first year in which credits are claimed, that  
90 during the compliance period indicated in the land use restriction agreement, the cost of the  
91 affordable housing unit to the occupant for the claimed unit can reasonably be projected to be  
92 in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant  
93 acquiring the affordable housing unit during the compliance period indicated in the land use  
94 restriction agreement shall make the same certification;

95 (4) If at any time during the compliance period the commission determines a project for  
96 which a proposal has been approved is not in compliance with the applicable provisions of  
97 sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one  
98 hundred fifty days of notice to the owner either seek injunctive enforcement action against the  
99 owner, or seek legal damages against the owner representing the value of the tax credits, or  
100 foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and  
101 paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax  
102 credits allowed herein. The commission shall remit to the director of revenue the portion of the  
103 legal damages collected or the sale proceeds representing the value of the tax credits. However,  
104 except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for  
105 tax credits shall not be revoked.

106 4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall  
107 not exceed fifty-five percent of the total amount contributed to a neighborhood organization by  
108 business firms. Any tax credit not used in the period for which the credit was approved may be  
109 carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed.  
110 The total amount of tax credit granted for programs approved pursuant to section 32.112 shall  
111 not exceed one million dollars for each fiscal year.

112 5. The total amount of tax credits used for market rate housing in distressed communities  
113 pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all  
114 tax credits authorized pursuant to sections 32.111 and 32.112.

115 **6. (1) Except as provided in subdivision (2) of this subsection, notwithstanding any**  
116 **other provision of law to the contrary, no tax credits shall be authorized under sections**  
117 **32.100 to 32.125 on or after August 28, 2017, or issued after June 30, 2018, and any such**  
118 **tax credit issued before July 1, 2018, that is not redeemed in the period the contribution**  
119 **was made may be carried forward as provided in this section.**

120 **(2) All tax credits for economic development under the development tax credit**  
121 **program created under sections 32.100 to 32.125 shall be administered as provided in**  
122 **section 620.2020.**

135.352. 1. A taxpayer owning an interest in a qualified Missouri project shall, subject to the limitations provided under the provisions of ~~[subsection 3]~~ **subsections 2, 3, and 7** of this section, be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

2. For qualified Missouri projects **authorized on or before June 30, 2018, and** placed in service after January 1, 1997, the Missouri low-income housing tax credit available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the federal low-income housing tax credit for a qualified Missouri project, for a federal tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period. **For qualified Missouri projects authorized on or after July 1, 2018, the Missouri low-income housing tax credits available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project for a five-year tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period. No more than eighty million dollars in tax credits provided under sections 135.350 to 135.363 shall be authorized in any fiscal year beginning on or after July 1, 2018.**

3. For qualified Missouri projects authorized on or after July 1, 2018, the Missouri low-income housing tax credits approved by the commission under the eligibility statement issued under subsection 1 of this section shall be claimed subject to the following requirements and restrictions:

(1) The full amount of the annual tax credits issued on the eligibility statement may be claimed in the calendar year in which the first low-income unit in the property is occupied by a qualified tenant;

(2) The owner of the qualified Missouri project shall, within thirty calendar days of the end of the calendar year in which the first low-income unit is occupied by a qualified tenant, submit to the commission a notification indicating:

(a) The number of low-income units in the project, or in each building or multi-building project, that were occupied by qualified tenants as of the end of the calendar year in which the first low-income unit was occupied by a qualified tenant; and

(b) The amount of tax credits that will be claimed for the project for that tax year;

(3) If the qualified Missouri project has satisfied the requirements necessary to claim the full amount of tax credits issued on the eligibility statement, but has not yet rented all of the low-income units to qualified tenants on or before the end of the calendar year in which the first low-income unit was occupied by a qualified tenant, the owner of the project shall submit a second notification to the commission when all of the low-income

37 units have been occupied by qualified tenants. If some of the low-income units are not  
38 occupied by qualified tenants by the end of the second calendar year after the year in  
39 which the first low-income unit was occupied by a qualified tenant, the amount of tax  
40 credits associated with those units which are not occupied by qualified tenants shall be  
41 reduced from the tax credits approved for that year and all future credit years until all of  
42 the low-income units have been rented to qualified tenants.

43 4. To the extent the amount of tax credits allocated to a qualified Missouri project  
44 is reduced pursuant to subsection 3 of this section, the taxpayer claiming the tax credits  
45 with respect to such project shall be required to recapture the same amount of tax credits  
46 from the initial tax year in which the tax credits were claimed.

47 5. No more than six million dollars in tax credits shall be authorized each fiscal year for  
48 projects financed through tax-exempt bond issuance. **No tax credits shall be authorized after**  
49 **June 30, 2018, for projects financed through tax-exempt bond issuance.**

50 [4-] 6. The Missouri low-income housing tax credit shall be taken against the taxes and  
51 in the order specified pursuant to section 32.115. The credit authorized by this section shall not  
52 be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may  
53 be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the  
54 taxpayer's five subsequent taxable years. **For projects authorized on or after July 1, 2018, any**  
55 **amount of credit that exceeds the tax due for a taxpayer's tax year shall not be carried**  
56 **forward to any of the taxpayer's five subsequent tax years.**

57 [5-] 7. All or any portion of Missouri tax credits issued in accordance with the  
58 provisions of sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant  
59 to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified  
60 projects which began on or after January 1, 1994, an owner of a qualified Missouri project shall  
61 certify to the director the amount of credit allocated to each taxpayer. The owner of the project  
62 shall provide to the director appropriate information so that the low-income housing tax credit  
63 can be properly allocated.

64 [6-] 8. In the event that recapture of Missouri low-income housing tax credits is required  
65 pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided  
66 in this section shall include the proportion of the state credit required to be recaptured, the  
67 identity of each taxpayer subject to the recapture and the amount of credit previously allocated  
68 to such taxpayer.

69 [7-] 9. **A taxpayer that receives tax credits under the provisions of sections 253.545**  
70 **to 253.559 shall be ineligible to receive tax credits under the provisions of sections 135.350**  
71 **to 135.363 for the same project.**

72       **10. The qualified Missouri project shall rent at least forty percent of its units to**  
73 **individuals or families who earn at least fifty percent of the median income of the area or**  
74 **shall rent at least sixty percent of its units to individuals or families who earn at least sixty**  
75 **percent of the median income of the area.**

76       **11.** The director of the department may promulgate rules and regulations necessary to  
77 administer the provisions of this section. No rule or portion of a rule promulgated pursuant to  
78 the authority of this section shall become effective unless it has been promulgated pursuant to  
79 the provisions of section 536.024.

80       **12. Notwithstanding provisions of subsection 9 of this section to the contrary, the**  
81 **commission shall have sole authority to promulgate rules and regulations necessary to**  
82 **administer the provisions of subsection 3 of this section. Any rule or portion of a rule, as**  
83 **that term is defined in section 536.010, that is created under the authority delegated in this**  
84 **section shall become effective only if it complies with and is subject to all of the provisions**  
85 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**  
86 **nonseverable, and if any of the powers vested with the general assembly pursuant to**  
87 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**  
88 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
89 **proposed or adopted after August 28, 2017, shall be invalid and void.**

135.481. 1. (1) Any taxpayer who incurs eligible costs for a new residence located in  
2 a distressed community or within a census block group as described in subdivision (10) of  
3 section 135.478, or for a multiple unit condominium described in subdivision (2) of this  
4 subsection, shall receive a tax credit equal to fifteen percent of such costs against his or her tax  
5 liability. The tax credit shall not exceed forty thousand dollars per new residence in any ten-year  
6 period **or one million dollars annually. In issuing the credits, the department of revenue**  
7 **shall, to the best of its ability, distribute the credits evenly between eligible residences and**  
8 **qualifying residences.**

9       (2) For the purposes of this section, a "multiple unit condominium" is one that is  
10 intended to be owner occupied, which is constructed on property subject to an industrial  
11 development contract as defined in section 100.310 and which lies within an area with a city  
12 zoning classification of urban redevelopment district established after January 1, 2000, and  
13 before December 31, 2001, and which is constructed in connection with the qualified  
14 rehabilitation of a structure more than ninety years old eligible for the historic structures  
15 rehabilitation tax credit described in sections 253.545 to 253.559, and is under way by January  
16 1, 2000, and completed by January 1, 2002.

17       2. Any taxpayer who incurs eligible costs for a new residence located within a census  
18 block as described in subdivision (6) of section 135.478 shall receive a tax credit equal to fifteen

19 percent of such costs against his or her tax liability. The tax credit shall not exceed twenty-five  
20 thousand dollars per new residence in any ten-year period.

21         3. Any taxpayer who is not performing substantial rehabilitation and who incurs eligible  
22 costs for rehabilitation of an eligible residence or a qualifying residence shall receive a tax credit  
23 equal to twenty-five percent of such costs against his or her tax liability. The minimum eligible  
24 costs for rehabilitation of an eligible residence shall be ten thousand dollars. The minimum  
25 eligible costs for rehabilitation of a qualifying residence shall be five thousand dollars. The tax  
26 credit shall not exceed twenty-five thousand dollars in any ten-year period.

27         4. Any taxpayer who incurs eligible costs for substantial rehabilitation of a qualifying  
28 residence shall receive a tax credit equal to thirty-five percent of such costs against his or her tax  
29 liability. The minimum eligible costs for substantial rehabilitation of a qualifying residence shall  
30 be ten thousand dollars. The tax credit shall not exceed seventy thousand dollars in any ten-year  
31 period.

32         5. A taxpayer shall be eligible to receive tax credits for new construction or rehabilitation  
33 pursuant to only one subsection of this section.

34         6. No tax credit shall be issued pursuant to this section for any structure which is in  
35 violation of any municipal or county property, maintenance or zoning code.

36         7. No tax credit shall be issued pursuant to sections 135.475 to 135.487 for the  
37 construction or rehabilitation of rental property.

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