

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Bill No. 649, Page 1, Section A, Line 2, by inserting after all of said section and
2 line the following:

3
4 "260.1150. 1. This section shall be known and may be cited as the "Environmental
5 Restoration Corporation Act".

6 2. (1) A public benefit nonprofit corporation may be formed under the provisions of
7 chapter 355 to hold, manage, or own environmentally impaired property that is otherwise subject to
8 an ongoing cleanup or remedial action under the Comprehensive Environmental Response,
9 Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq.; the Missouri hazardous waste
10 management law, sections 260.350 to 260.433; the Federal Water Pollution Control Act, 33 U.S.C
11 Section 1251, et seq.; or the Missouri clean water law, sections 644.006 to 644.150, for the purpose
12 of promoting social welfare in Missouri by facilitating efforts to restore and redevelop such
13 environmentally impaired property.

14 (2) The provisions of this section shall only apply to property located in:

15 (a) A county with a charter form of government and with more than two hundred thousand
16 but fewer than three hundred fifty thousand inhabitants;

17 (b) A county of the third classification without a township form of government and with
18 more than twenty-three thousand but fewer than twenty-six thousand inhabitants and with a city of
19 the fourth classification with more than two thousand four hundred but fewer than two thousand
20 seven hundred inhabitants as the county seat;

21 (c) A county of the first classification with more than sixty-five thousand but fewer than
22 seventy-five thousand inhabitants and with a county seat with more than fifteen thousand but fewer
23 than seventeen thousand inhabitants;

24 (d) A county of the third classification without a township form of government and with
25 more than ten thousand but fewer than twelve thousand inhabitants and with a city of the fourth
26 classification with more than one thousand three hundred fifty but fewer than one thousand five
27 hundred inhabitants as the county seat;

28 (e) A county of the third classification without a township form of government and with
29 more than twelve thousand but fewer than fourteen thousand inhabitants and with a city of the
30 fourth classification with more than three thousand seven hundred but fewer than four thousand
31 inhabitants as the county seat;

32 (f) A county of the third classification without a township form of government and with
33 more than six thousand but fewer than seven thousand inhabitants and with a city of the fourth
34 classification with more than one hundred fifty but fewer than two hundred inhabitants as the county
35 seat; and

36 (g) A county of the third classification without a township form of government and with

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1 more than twelve thousand but fewer than fourteen thousand inhabitants and with a city of the
2 fourth classification with more than five hundred but fewer than five hundred fifty inhabitants as the
3 county seat.

4 3. Any such nonprofit corporation organized under this section shall, in addition to all
5 powers conferred by chapter 355, have the following powers, which shall be exercised at the sole
6 and exclusive discretion of the directors:

7 (1) To adopt bylaws and rules for the regulation of its affairs and the conduct of its business;

8 (2) To adopt an official seal;

9 (3) To sue and be sued;

10 (4) To accept gifts, contributions, disbursements, distributions, donations, endowments,
11 loans, grants, settlement proceeds, and payments from the federal and state government, and from
12 other sources, public or private, for carrying out any of its functions, which funds shall not be
13 expended other than for the purposes provided;

14 (5) To acquire, accept, convey, dispose, encumber, manage, and own any real property that
15 is subject to any cleanup or remedial action as described in subsection 2 of this section;

16 (6) To make and execute leases, contracts, releases, compromises, and other instruments
17 necessary or convenient to carry out its purposes;

18 (7) To convey real property when the board of directors finds, at its sole discretion, that it
19 has acquired all rights, title, and interest in the property within the area designated for cleanup or
20 remediation and such conveyance is in the public interest. In any such conveyance, the board of
21 directors may impose such conditions and covenants, including conservation easements, as it
22 determines are reasonable and appropriate;

23 (8) To employ and pay compensation to such employees and agents, including accountants,
24 attorneys, and others as the board of directors shall deem necessary to further the purposes of such
25 nonprofit corporation; and

26 (9) To enter into contracts with private or public entities to conduct, implement, manage,
27 oversee, and regulate any and all activities that may be necessary or required in connection with the
28 management of the real property and the implementation of any cleanup or remedial action as
29 described in subsection 2 of this section. Any such contract may include provisions for the delivery
30 of administrative support services to the corporation and for a reasonable fee to be paid for
31 management services related to the execution and implementation of any and all activities required
32 by such contract.

33 4. Any such nonprofit corporation organized under this section shall be managed and
34 regulated by a board consisting of no less than five directors, who shall initially be appointed by the
35 incorporators. Any director shall not have any personal liability related to any official acts or
36 obligations of the corporation. However, any such immunity shall not apply with regard to any
37 intentional or negligent act or omission that results in a violation of any law set forth in subsection 2
38 of this section. No more than two directors shall be employed by a state, county, or local
39 government, and no more than two directors shall be public nongovernmental members. The board
40 shall meet at least four times per calendar year. A quorum of the board shall consist of three
41 members. An action taken by a majority vote of the board at a meeting where a quorum is present
42 shall be an act of the board. All powers and duties conferred upon the directors shall be exercised
43 personally by the directors and not by alternates or representatives. All actions of any such
44 nonprofit corporation shall be taken at meetings open to the public, except for confidential matters
45 relating to personnel, contracts, or litigation.

46 5. If any such nonprofit corporation receives public funds in connection with any specific
47 environmental restoration activity at a specific property:

48 (1) The corporation shall allow for reasonable periodic audits by the state auditor with

1 respect to the corporation's use of such public funds in relation to the property for which such public
2 funds were received; and

3 (2) The corporation shall, upon reasonable request, provide an annual report to the general
4 assembly concerning the receipt and use of such public funds.

5 6. Any such nonprofit corporation may include in any conveyance of any real property to
6 any third party an environmental covenant in the form as set forth in sections 260.1000 to 260.1039
7 or a conservation easement under section 442.014.

8 7. Prior to acquiring any interest in any real property that is the subject of any
9 environmental restoration activities, any such nonprofit corporation shall undertake all reasonable
10 and appropriate due diligence activities in accordance with all applicable regulations adopted by the
11 United States Environmental Protection Agency in order to qualify the nonprofit corporation as a
12 bona fide prospective purchaser as defined in 42 U.S.C. Section 9601(40), as amended. Provided
13 such nonprofit corporation qualifies as a bona fide prospective purchaser, such nonprofit corporation
14 shall be immune from any liability of any kind or nature under the Missouri hazardous waste
15 management law under sections 260.350 to 260.433; the Missouri solid waste management law
16 under sections 260.200 to 260.345; or the Missouri clean water law under chapter 644 for any
17 conditions that may exist at, on, or under any such real property; however, such corporation shall
18 comply with all applicable regulatory requirements.

19 8. Any such nonprofit corporation owes no duty of care and shall have no liability of any
20 kind or nature whatsoever to any trespasser who enters on any real property held, managed, or
21 owned by the nonprofit corporation in relation to keeping the land safe for recreational or any other
22 use or to giving any general or specific notice or warning with respect to any natural or artificial
23 condition, structure, or personal property thereon."; and

24
25 Further amend said bill by amending the title, enacting clause, and intersectional references
26 accordingly.