SECOND REGULAR SESSION

HOUSE BILL NO. 2499

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASHINGTON.

4315H.01I DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 135.350, 135.352, and 135.363, RSMo, and to enact in lieu thereof three new sections relating to low-income housing tax credits.

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

Section A. Sections 135.350, 135.352, and 135.363, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.350, 135.352, and 135.363, to read as follows:

135.350. As used in **[**~~this section~~**]** **sections 135.350 to 135.363**, unless the context clearly requires otherwise, the following words and phrases shall mean:

(1) "Commission", the Missouri housing development commission, or its successor agency;

(2) "Director", director of the department of revenue;

(3) "Eligibility statement", a statement authorized and issued by the commission certifying that a given project qualifies for the Missouri low-income housing tax credit. The commission shall promulgate rules establishing criteria upon which the eligibility statements will be issued. The eligibility statement shall specify the amount of the Missouri low-income housing tax credit allowed. The commission shall only authorize the tax credits to qualified projects which begin after June 18, 1991;

(4) **"Federal housing credit allocation", the amount of the federal low-income housing tax credits allocated to the state under 26 U.S.C. Section 42, as amended;**

(5) "Federal low-income housing tax credit", the federal tax credit as provided in section 42 of the 1986 Internal Revenue Code, as amended;

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.

[~~(5)~~] **(6)** "Low-income project", a housing project which has restricted rents that do not exceed thirty percent of median income for at least forty percent of its units occupied by persons of families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income;

[~~(6)~~] **(7)** "Median income", those incomes which are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size;

[~~(7)~~] **(8)** "Qualified Missouri project", a qualified low-income building as that term is defined in section 42 of the 1986 Internal Revenue Code, as amended, which is located in Missouri;

(9) "State authorization limit", an amount of Missouri low-income housing tax credits not to exceed the lesser of:

(a) Seventy-two and one-half percent of the federal housing credit allocation; or

(b) One hundred twenty-three million dollars, adjusted annually by the percentage increase in the Consumer Price Index for All Urban Consumers, Midwest Region, or its successor index,

increased by any amount of state tax credits that are recaptured under the provisions of section 135.355. "State authorization limit" shall not include tax credits authorized for projects financed through tax-exempt bond issuance;

[~~(8)~~] **(10)** "Taxpayer", person, firm or corporation subject to the state income tax imposed by the provisions of chapter 143 (except withholding imposed by sections 143.191 to 143.265) or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state.

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 3 and 4** 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 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.

3. **For all fiscal years beginning on or after July 1, 2020, the aggregate amount of tax credits authorized in a fiscal year for projects not financed through tax-exempt bond issuance shall not exceed the state authorization limit.**

4. No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax-exempt bond issuance. **For all fiscal years beginning on or after July 1, 2020, no more than four million dollars annually in state tax credits shall be authorized each fiscal year to projects financed through tax-exempt bond issuance. Notwithstanding the provisions of subsection 3 of this section to the contrary, to the extent that less than four million dollars in state tax credits is authorized to projects financed through tax-exempt bond issuance in any fiscal year, such remainder may be, for such fiscal year only, added to the annual amount authorized under subsection 3 of this section to projects that are not financed through tax-exempt bond issuance.**

[~~4.~~**] 5.** The Missouri low-income housing tax credit shall be taken against the taxes and in the order specified pursuant to section 32.115. The credit authorized by this section shall not be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the taxpayer's five subsequent taxable years.

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

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

6. For tax credits that are allocated solely within a partnership owning an interest in a qualified Missouri project, the owner shall certify to the director the amount of credit allocated to each taxpayer owning an interest in the project. The owner of the project shall provide to the director appropriate information so that the low-income housing tax credit can be properly allocated. In the event that recapture of the Missouri low-income housing

tax credit is required under subsection 2 of section 135.355, any statement submitted to the director as provided in this subsection shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of credit previously allocated to such taxpayer.

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

8. To aid in awarding credits under this section, the commission shall establish an evaluation rubric and score applicants for qualified Missouri projects against the rubric. The evaluation rubric shall include a component and score for applications that provide documentation to the commission demonstrating the applicant received competitive bids for the tax credits. The commission shall publish the rubric before it accepts applications and shall publish the scored rubric for each application.

135.363. 1. All or any portion of tax credits issued in accordance with the provisions of sections 135.350 to 135.363 may be transferred, sold or assigned to parties who are eligible under the provisions of subsection 1 of section 135.352. **For qualified Missouri projects, an owner or transferee desiring to make a transfer, sale, or assignment as described in this subsection shall submit to the director of revenue a statement that describes the amount of credit for which such transfer, sale, or assignment of credit is eligible. The owner shall provide to the director of revenue appropriate information so that the low-income housing tax credit can be properly allocated.**

2. **[**~~Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner or transferee desiring to make a transfer, sale or assignment as described in subsection 1 of this section shall submit to the director of the department of revenue a statement which describes the amount of credit for which such transfer, sale or assignment of credit is eligible. The owner shall provide to the director of revenue appropriate information so that the low-income housing tax credit can be properly allocated.~~

~~3. In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director of the department of revenue as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.~~

~~4.~~**] Beginning August 28, 2021, the commission shall establish a pilot program under which the tax credits issued in accordance with the provisions of sections 135.350 to 135.363 may be transferred, sold, or assigned to a third party if so authorized by the**

commission and elected by the taxpayer. The amount of tax credits authorized to be transferred under this subsection shall not exceed fifteen percent of the state authorization limit. To transfer, sell, or assign a tax credit to a third party under this subsection, the taxpayer shall file a notarized endorsement thereof that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department, with the department of revenue. In the event that recapture of the Missouri low-income housing tax credit is required under subsection 2 of section 135.355, any notarized endorsement submitted to the director as provided in this subsection shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of credit previously sold, transferred, or assigned to such taxpayer. For the purposes of the pilot program established under this subsection, the provisions of subsection 1 of section 135.352 requiring ownership interest in a qualified Missouri project shall not apply. The pilot program established under this subsection shall expire on August 28, 2024.

3. The director of the department of revenue may prescribe rules and regulations necessary for the administration of the provisions of this section.

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