

FIRST REGULAR SESSION

HOUSE BILL NO. 315

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RIGGS.

0179H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 253.545 and 253.559, RSMo, and to enact in lieu thereof two new sections relating to tax credits for the rehabilitation of historic structures.

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

Section A. Sections 253.545 and 253.559, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 253.545 and 253.559, to read as follows:

253.545. As used in sections 253.545 to 253.559, the following terms mean, unless the context requires otherwise:

(1) "Certified historic structure", a property located in Missouri and listed individually on the National Register of Historic Places;

(2) "Deed in lieu of foreclosure or voluntary conveyance", a transfer of title from a borrower to the lender to satisfy the mortgage debt and avoid foreclosure;

(3) "Eligible property", property located in Missouri and offered or used for residential or business purposes;

(4) "Leasehold interest", a lease in an eligible property for a term of not less than thirty years;

(5) "Principal", a managing partner, general partner, or president of a taxpayer;

(6) "Projected net fiscal benefit", the total net fiscal benefit to the state or municipality, less any state or local benefits offered to the taxpayer for a project, as determined by the department of economic development. **Fiscal benefits shall include, but not be limited to, any increased revenue from sales or property taxes;**

(7) "Qualified census tract", a census tract with a poverty rate of twenty percent or higher as determined by a map and listing of census tracts which shall be published by the

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.

18 department of economic development and updated on a five-year cycle, and which map and
19 listing shall depict census tracts with twenty percent poverty rate or higher, grouped by census
20 tracts with twenty percent to forty-two percent poverty, and forty-two percent to eighty-one
21 percent poverty as determined by the most current five-year figures published by the
22 American Community Survey conducted by the United States Census Bureau;

23 (8) "Structure in a certified historic district", a structure located in Missouri which is
24 certified by the department of natural resources as contributing to the historic significance of
25 a certified historic district listed on the National Register of Historic Places, or a local district
26 that has been certified by the United States Department of the Interior;

27 (9) "Taxpayer", any person, firm, partnership, trust, estate, limited liability company,
28 or corporation.

253.559. 1. To obtain approval for tax credits allowed under sections 253.545 to
2 253.559, a taxpayer shall submit an application for tax credits to the department of economic
3 development. Each application for approval, including any applications received for
4 supplemental allocations of tax credits as provided under subsection 10 of this section, shall
5 be prioritized for review and approval, in the order of the date on which the application was
6 postmarked, with the oldest postmarked date receiving priority. Applications postmarked on
7 the same day shall go through a lottery process to determine the order in which such
8 applications shall be reviewed.

9 2. Each application shall be reviewed by the department of economic development for
10 approval. In order to receive approval, an application, other than applications submitted
11 under the provisions of subsection 10 of this section, shall include:

12 (1) Proof of ownership or site control. Proof of ownership shall include evidence that
13 the taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a
14 closing statement. Proof of site control may be evidenced by a leasehold interest or an option
15 to acquire such an interest. If the taxpayer is in the process of acquiring fee simple
16 ownership, proof of site control shall include an executed sales contract or an executed option
17 to purchase the eligible property;

18 (2) Floor plans of the existing structure, architectural plans, and, where applicable,
19 plans of the proposed alterations to the structure, as well as proposed additions;

20 (3) The estimated cost of rehabilitation, the anticipated total costs of the project, the
21 actual basis of the property, as shown by proof of actual acquisition costs, the anticipated total
22 labor costs, the estimated project start date, and the estimated project completion date;

23 (4) Proof that the property is an eligible property and a certified historic structure or a
24 structure in a certified historic district;

25 (5) A copy of all land use and building approvals reasonably necessary for the
26 commencement of the project; and

27 (6) Any other information which the department of economic development may
28 reasonably require to review the project for approval.

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30 Only the property for which a property address is provided in the application shall be
31 reviewed for approval. Once selected for review, a taxpayer shall not be permitted to request
32 the review of another property for approval in the place of the property contained in such
33 application. Any disapproved application shall be removed from the review process. If an
34 application is removed from the review process, the department of economic development
35 shall notify the taxpayer in writing of the decision to remove such application. Disapproved
36 applications shall lose priority in the review process. A disapproved application, which is
37 removed from the review process, may be resubmitted, but shall be deemed to be a new
38 submission for purposes of the priority procedures described in this section.

39 3. (1) In evaluating an application for tax credits submitted under this section, the
40 department of economic development shall also consider:

41 (a) The amount of projected net fiscal benefit of the project to the state and local
42 municipality, and the period in which the state and municipality would realize such net fiscal
43 benefit;

44 (b) The overall size and quality of the proposed project, including:

45 a. The estimated number of new jobs to be created by the project[~~;~~];

46 b. **Capital improvements created by a project and the potential of future capital**
47 **improvements;**

48 c. **Increased revenues from sales or property taxes;**

49 d. The potential multiplier effect of the project[~~;~~]; and

50 e. **Other** similar factors;

51 (c) The level of economic distress in the area; and

52 (d) Input from the local elected officials in the local municipality in which the
53 proposed project is located as to the importance of the proposed project to the municipality.
54 For any proposed project in any city not within a county, input from the local elected officials
55 shall include, but shall not be limited to, the president of the board of aldermen.

56 (2) The provisions of this subsection shall not apply to applications for projects to
57 receive less than two hundred seventy-five thousand dollars in tax credits.

58 4. If the department of economic development deems the application sufficient, the
59 taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the
60 amount provided under section 253.550 less any amount of tax credits previously approved.
61 Such approvals shall be granted to applications in the order of priority established under this
62 section and shall require full compliance thereafter with all other requirements of law as a
63 condition to any claim for such credits. If the department of economic development

64 disapproves an application, the taxpayer shall be notified in writing of the reasons for such
65 disapproval. A disapproved application may be resubmitted.

66 5. Following approval of an application, the identity of the taxpayer contained in such
67 application shall not be modified except:

68 (1) The taxpayer may add partners, members, or shareholders as part of the ownership
69 structure, so long as the principal remains the same, provided however, that subsequent to the
70 commencement of renovation and the expenditure of at least ten percent of the proposed
71 rehabilitation budget, removal of the principal for failure to perform duties and the
72 appointment of a new principal thereafter shall not constitute a change of the principal; or

73 (2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of
74 a foreclosure or voluntary conveyance, or a transfer in bankruptcy.

75 6. In the event that the department of economic development grants approval for tax
76 credits equal to the total amount available under subsection 2 of section 253.550, or sufficient
77 that when totaled with all other approvals, the amount available under subsection 2 of section
78 253.550 is exhausted, all taxpayers with applications then awaiting approval or thereafter
79 submitted for approval shall be notified by the department of economic development that no
80 additional approvals shall be granted during the fiscal year and shall be notified of the priority
81 given to such taxpayer's application then awaiting approval. Such applications shall be kept
82 on file by the department of economic development and shall be considered for approval for
83 tax credits in the order established in this section in the event that additional credits become
84 available due to the rescission of approvals or when a new fiscal year's allocation of credits
85 becomes available for approval.

86 7. All taxpayers with applications receiving approval on or after July 1, 2019, shall
87 submit within sixty days following the award of credits evidence of the capacity of the
88 applicant to finance the costs and expenses for the rehabilitation of the eligible property in the
89 form of a line of credit or letter of commitment subject to the lender's termination for a
90 material adverse change impacting the extension of credit. If the department of economic
91 development determines that a taxpayer has failed to comply with the requirements under this
92 subsection, then the department shall notify the applicant of such failure and the applicant
93 shall have a thirty-day period from the date of such notice to submit additional evidence to
94 remedy the failure.

95 8. All taxpayers with applications receiving approval on or after the effective date of
96 this act shall commence rehabilitation within nine months of the date of issuance of the letter
97 from the department of economic development granting the approval for tax credits.
98 "Commencement of rehabilitation" shall mean that as of the date in which actual physical
99 work, contemplated by the architectural plans submitted with the application, has begun, the
100 taxpayer has incurred no less than ten percent of the estimated costs of rehabilitation provided

101 in the application. Taxpayers with approval of a project shall submit evidence of compliance
102 with the provisions of this subsection. If the department of economic development
103 determines that a taxpayer has failed to comply with the requirements provided under this
104 section, the approval for the amount of tax credits for such taxpayer shall be rescinded and
105 such amount of tax credits shall then be included in the total amount of tax credits, provided
106 under subsection 2 of section 253.550, from which approvals may be granted. Any taxpayer
107 whose approval shall be subject to rescission shall be notified of such from the department of
108 economic development and, upon receipt of such notice, may submit a new application for the
109 project.

110 9. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with
111 approval shall apply for final approval and issuance of tax credits from the department of
112 economic development which, in consultation with the department of natural resources, shall
113 determine the final amount of eligible rehabilitation costs and expenses and whether the
114 completed rehabilitation meets the standards of the Secretary of the United States Department
115 of the Interior for rehabilitation as determined by the state historic preservation officer of the
116 Missouri department of natural resources. For financial institutions credits authorized
117 pursuant to sections 253.550 to 253.561 shall be deemed to be economic development credits
118 for purposes of section 148.064. The approval of all applications and the issuing of
119 certificates of eligible credits to taxpayers shall be performed by the department of economic
120 development. The department of economic development shall inform a taxpayer of final
121 approval by letter and shall issue, to the taxpayer, tax credit certificates. The taxpayer shall
122 attach the certificate to all Missouri income tax returns on which the credit is claimed.

123 10. Except as expressly provided in this subsection, tax credit certificates shall be
124 issued in the final year that costs and expenses of rehabilitation of the project are incurred, or
125 within the twelve-month period immediately following the conclusion of such rehabilitation.
126 In the event the amount of eligible rehabilitation costs and expenses incurred by a taxpayer
127 would result in the issuance of an amount of tax credits in excess of the amount provided
128 under such taxpayer's approval granted under subsection 4 of this section, such taxpayer may
129 apply to the department for issuance of tax credits in an amount equal to such excess.
130 Applications for issuance of tax credits in excess of the amount provided under a taxpayer's
131 application shall be made on a form prescribed by the department. Such applications shall be
132 subject to all provisions regarding priority provided under subsection 1 of this section.

133 11. The department of economic development shall determine, on an annual basis, the
134 overall economic impact to the state from the rehabilitation of eligible property.

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