

SECOND REGULAR SESSION

HOUSE BILL NO. 2089

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'DONNELL.

3927H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 32.115 and 135.460, RSMo, and to enact in lieu thereof two new sections relating to benevolent tax credits.

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

Section A. Sections 32.115 and 135.460, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 32.115 and 135.460, to read as follows:

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

3 (1) The annual tax on gross premium receipts of insurance companies in chapter 148;

4 (2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section
5 148.030;

6 (3) The tax on banks determined in subdivision (1) of subsection 2 of section
7 148.030;

8 (4) The tax on other financial institutions in chapter 148;

9 (5) The corporation franchise tax in chapter 147;

10 (6) The state income tax in chapter 143; and

11 (7) The annual tax on gross receipts of express companies in chapter 153.

12 2. For proposals approved pursuant to section 32.110:

13 (1) The amount of the tax credit shall not exceed ~~fifty~~ **seventy** percent of the total
14 amount contributed during the taxable year by the business firm or, in the case of a financial
15 institution, where applicable, during the relevant income period in programs approved
16 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.

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

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

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

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

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

31

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

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

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

61 3. For proposals approved pursuant to section 32.111:

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

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

87 (3) In the case of owner-occupied affordable housing units, the qualifying owner
88 occupant shall, before the end of the first year in which credits are claimed, certify to the
89 commission that the occupant is income eligible during the preceding two years, and at the
90 time of the initial purchase contract, but not thereafter. The qualifying owner occupant shall

91 further certify to the commission, before the end of the first year in which credits are claimed,
92 that during the compliance period indicated in the land use restriction agreement, the cost of
93 the affordable housing unit to the occupant for the claimed unit can reasonably be projected to
94 be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner
95 occupant acquiring the affordable housing unit during the compliance period indicated in the
96 land use restriction agreement shall make the same certification;

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

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

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

135.460. 1. This section and sections 620.1100 and 620.1103 shall be known and
2 may be cited as the "Youth Opportunities and Violence Prevention Act".

3 2. As used in this section, the term "taxpayer" shall include corporations as defined in
4 section 143.441 or 143.471, any charitable organization which is exempt from federal income
5 tax and whose Missouri unrelated business taxable income, if any, would be subject to the
6 state income tax imposed under chapter 143, and individuals, individual proprietorships and
7 partnerships.

8 3. A taxpayer shall be allowed a tax credit against the tax otherwise due pursuant to
9 chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, chapter 147,
10 chapter 148, or chapter 153 in an amount equal to thirty percent for property contributions
11 and ~~[fifty]~~ **seventy** percent for monetary contributions of the amount such taxpayer

12 contributed to the programs described in subsection 5 of this section, not to exceed two
13 hundred thousand dollars per taxable year, per taxpayer; except as otherwise provided in
14 subdivision (5) of subsection 5 of this section. The department of economic development
15 shall prescribe the method for claiming the tax credits allowed in this section. No rule or
16 portion of a rule promulgated under the authority of this section shall become effective unless
17 it has been promulgated pursuant to the provisions of chapter 536. All rulemaking authority
18 delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in
19 this section shall be interpreted to repeal or affect the validity of any rule filed or adopted
20 prior to June 27, 1997, if such rule complied with the provisions of chapter 536. The
21 provisions of this section and chapter 536 are nonseverable and if any of the powers vested
22 with the general assembly pursuant to chapter 536, including the ability to review, to delay the
23 effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held
24 unconstitutional, then the purported grant of rulemaking authority and any rule so proposed
25 and contained in the order of rulemaking shall be invalid and void.

26 4. The tax credits allowed by this section shall be claimed by the taxpayer to offset
27 the taxes that become due in the taxpayer's tax period in which the contribution was made.
28 Any tax credit not used in such tax period may be carried over the next five succeeding tax
29 periods.

30 5. The tax credit allowed by this section may only be claimed for monetary or
31 property contributions to public or private programs authorized to participate pursuant to this
32 section by the department of economic development and may be claimed for the
33 development, establishment, implementation, operation, and expansion of the following
34 activities and programs:

35 (1) An adopt-a-school program. Components of the adopt-a-school program shall
36 include donations for school activities, seminars, and functions; school-business employment
37 programs; and the donation of property and equipment of the corporation to the school;

38 (2) Expansion of programs to encourage school dropouts to reenter and complete high
39 school or to complete a graduate equivalency degree program;

40 (3) Employment programs. Such programs shall initially, but not exclusively, target
41 unemployed youth living in poverty and youth living in areas with a high incidence of crime;

42 (4) New or existing youth clubs or associations;

43 (5) Employment/internship/apprenticeship programs in business or trades for persons
44 less than twenty years of age, in which case the tax credit claimed pursuant to this section
45 shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except
46 that such credit shall not exceed ten thousand dollars per person;

47 (6) Mentor and role model programs;

48 (7) Drug and alcohol abuse prevention training programs for youth;

49 (8) Donation of property or equipment of the taxpayer to schools, including schools
50 which primarily educate children who have been expelled from other schools, or donation of
51 the same to municipalities, or not-for-profit corporations or other not-for-profit organizations
52 which offer programs dedicated to youth violence prevention as authorized by the
53 department;

54 (9) Not-for-profit, private or public youth activity centers;

55 (10) Nonviolent conflict resolution and mediation programs;

56 (11) Youth outreach and counseling programs.

57 6. Any program authorized in subsection 5 of this section shall, at least annually,
58 submit a report to the department of economic development outlining the purpose and
59 objectives of such program, the number of youth served, the specific activities provided
60 pursuant to such program, the duration of such program and recorded youth attendance where
61 applicable.

62 7. The department of economic development shall, at least annually submit a report to
63 the Missouri general assembly listing the organizations participating, services offered and the
64 number of youth served as the result of the implementation of this section.

65 8. The tax credit allowed by this section shall apply to all taxable years beginning
66 after December 31, 1995.

67 9. For the purposes of the credits described in this section, in the case of a corporation
68 described in section 143.471, partnership, limited liability company described in section
69 347.015, cooperative, marketing enterprise, or partnership, in computing Missouri's tax
70 liability, such credits shall be allowed to the following:

71 (1) The shareholders of the corporation described in section 143.471;

72 (2) The partners of the partnership;

73 (3) The members of the limited liability company; and

74 (4) Individual members of the cooperative or marketing enterprise.

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76 Such credits shall be apportioned to the entities described in subdivisions (1) and (2) of this
77 subsection in proportion to their share of ownership on the last day of the taxpayer's tax
78 period.

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