

SECOND REGULAR SESSION

# HOUSE BILL NO. 2730

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DIEHL.

5569H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 135.1610, RSMo, and to enact in lieu thereof two new sections relating to tax credits for improving access to food.

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

Section A. Section 135.1610, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.1610 and 135.1620, to read as follows:

135.1610. 1. As used in this section, the following terms mean:

- (1) "Eligible expenses", expenses incurred in the construction or development of establishing or improving an urban farm in an urban area **or a small-scale specialty crop farm in a food desert**. The term eligible expenses shall not include any expense for labor or any expense incurred to grow medical marijuana or industrial hemp;
- (2) "Food desert", a census tract that has a poverty rate of at least twenty percent or a median family income of less than eighty percent of the statewide average and where at least five hundred people or thirty-three percent of the population is located at least one-half mile away from a full-service grocery store in an urban area or at least ten miles away from a full-service grocery store in a rural area;
- (3) "Rural area", a rural place as designated by the United States Census Bureau;
- (4) "Small-scale specialty crop farm", a farm no larger than thirty acres and growing three or more types of specialty crops at any given time on at least half of its total acreage;
- (5) "Specialty crop", fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops including, but not limited to, floriculture;

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 (6) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding  
19 withholding tax imposed under sections 143.191 to 143.265;

20 ~~[(3)]~~ (7) "Taxpayer", any individual, partnership, or corporation as described under  
21 section 143.441 or 143.471 that is subject to the tax imposed under chapter 143, excluding  
22 withholding tax imposed under sections 143.191 to 143.265, or any charitable organization  
23 that is exempt from federal income tax and whose Missouri unrelated business taxable  
24 income, if any, would be subject to the state income tax imposed under chapter 143;

25 ~~[(4)]~~ (8) "Urban area", an urbanized area as defined by the United States Census  
26 Bureau;

27 ~~[(5)]~~ (9) "Urban farm", an agricultural plot or facility in an urban area that produces  
28 agricultural food products used solely for distribution to the public by sale or donation.  
29 Urban farm shall include community-run gardens **and shall not exceed five acres in size.**  
30 Urban farm shall not include personal farms or residential lots for personal use.

31 2. For all tax years beginning on or after January 1, 2023, a taxpayer shall be allowed  
32 to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent  
33 of the taxpayer's eligible expenses for establishing or improving an urban farm **or small-scale**  
34 **specialty crop farm in a food desert** that focuses on food production.

35 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's  
36 state tax liability in the tax year for which the credit is claimed, and the taxpayer shall not be  
37 allowed to claim a tax credit under this section in excess of five thousand dollars for each  
38 urban farm **or small-scale specialty crop farm.** The total amount of tax credits that may be  
39 authorized for all taxpayers for eligible expenses incurred on any given urban farm **or small-**  
40 **scale specialty crop farm** shall not exceed twenty-five thousand dollars. Any issued tax  
41 credit that cannot be claimed in the tax year in which the eligible expenses were incurred may  
42 be carried over to the next three succeeding tax years until the full credit is claimed.

43 4. The total amount of tax credits that may be authorized under this section shall not  
44 exceed ~~[two hundred thousand]~~ **three million** dollars in any calendar year.

45 5. Tax credits issued under the provisions of this section shall not be transferred, sold,  
46 or assigned.

47 6. The Missouri agricultural and small business development authority shall recapture  
48 the amount of tax credits issued to any taxpayer who, after receiving such tax credit, uses the  
49 urban farm for the personal benefit of the taxpayer instead of for producing agricultural food  
50 products used solely for distribution to the public by sale or donation.

51 7. The Missouri agricultural and small business development authority may  
52 promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as  
53 that term is defined in section 536.010, that is created under the authority delegated in this  
54 section shall become effective only if it complies with and is subject to all of the provisions of

55 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
56 nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
57 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
58 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
59 adopted after January 2, 2023, shall be invalid and void.

60 8. Under section 23.253 of the Missouri sunset act:

61 (1) The program authorized under this section shall automatically sunset on  
62 December 31, 2028, unless reauthorized by an act of the general assembly;

63 (2) If such program is reauthorized, the program authorized under this section shall  
64 automatically sunset on December thirty-first twelve years after the effective date of the  
65 reauthorization of this section;

66 (3) This section shall terminate on September first of the calendar year immediately  
67 following the calendar year in which the program authorized under this section is sunset; and

68 (4) Nothing in this subsection shall prevent a taxpayer from claiming a tax credit  
69 properly issued before the program was sunset in a tax year after the program is sunset.

**135.1620. 1. As used in this section, the following terms mean:**

2 (1) "Department", the Missouri department of economic development;

3 (2) "Eligible expenses", expenses incurred in the construction or development of  
4 real property for the purpose of establishing a full-service grocery store in a food desert;

5 (3) "Food desert", a census tract that has a poverty rate of at least twenty  
6 percent or a median family income of less than eighty percent of the statewide average  
7 and where at least five hundred people or thirty-three percent of the population are  
8 located at least one-half mile away from a full-service grocery store in urbanized areas  
9 or at least ten miles away in rural areas;

10 (4) "Full-service grocery store", a grocery store that provides a full complement  
11 of healthful fruits, vegetables, grains, meat, and dairy products along with household  
12 items. Fresh fruits and vegetables shall be available for sale in quantities that are  
13 substantially similar to industry standards for facilities of similar size. A lack of  
14 availability of fresh fruits and vegetables in sufficient quantities due to a supply  
15 shortage, as determined by the department, shall not disqualify an entity from being a  
16 full-service grocery store otherwise eligible for tax credits pursuant to this section;

17 (5) "New location", a full-service grocery store facility located on a tract of real  
18 property within a food desert acquired by or leased to a taxpayer on or after January 1,  
19 2025. A location shall be deemed to have been acquired by or leased to a taxpayer on or  
20 after January 1, 2025, if the transfer of title to the taxpayer, the transfer of possession  
21 under a binding contract to transfer title to the taxpayer, or the commencement of the  
22 term of the lease to the taxpayer occurs on or after January 1, 2025, or if the

23 commencement of the construction or installation of the facility by or on behalf of a  
24 taxpayer occurs on or after January 1, 2025;

25 (6) "Rural area", a town or community within the state that is not within a  
26 metropolitan statistical area and has a population of six thousand or fewer inhabitants  
27 as determined by the last preceding federal decennial census or any unincorporated  
28 area not within a metropolitan statistical area;

29 (7) "Tax credit", a credit against the tax otherwise due under chapter 143,  
30 excluding withholding tax imposed under sections 143.191 to 143.265;

31 (8) "Taxpayer", any individual, partnership, or corporation as described under  
32 section 143.441 or 143.471 that is subject to the tax imposed under chapter 143,  
33 excluding withholding tax imposed under sections 143.191 to 143.265, or any charitable  
34 organization that is exempt from federal income tax and whose Missouri unrelated  
35 business taxable income, if any, would be subject to the state income tax imposed under  
36 chapter 143;

37 (9) "Urbanized area", an urbanized area as designated by the United States  
38 Census Bureau.

39 2. For all tax years beginning on or after January 1, 2025, a taxpayer shall be  
40 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal  
41 to fifty percent of the taxpayer's eligible expenses that are in excess of initial eligible  
42 expenses of:

43 (1) One million dollars if the full-service grocery store is established in a charter  
44 county, a county of the first classification, or a city not within a county; or

45 (2) Five hundred thousand dollars if the full-service grocery store is established  
46 in any other county.

47 3. (1) In order to claim a tax credit pursuant to this section, a taxpayer shall  
48 submit an application to the department, which shall include:

49 (a) All eligible expenses incurred by the taxpayer;

50 (b) The date of the commencement of construction of the full-service grocery  
51 store;

52 (c) The anticipated date of the commencement of operations of the full-service  
53 grocery store; and

54 (d) Any other information required by the department to implement the  
55 provisions of this section.

56 (2) The amount of the tax credit shall not exceed the amount of the taxpayer's  
57 state tax liability in the tax year for which the credit is claimed, and such taxpayer shall  
58 not be allowed to claim a tax credit in excess of two million five hundred thousand  
59 dollars per tax year. However, any tax credit that cannot be claimed in the tax year the

60 eligible expenses were incurred may be carried over to the next three succeeding tax  
61 years until the full credit is claimed.

62 4. The total amount of tax credits that may be authorized under this section shall  
63 not exceed twenty-two million dollars in any calendar year, which shall be authorized on  
64 a first-come, first-served basis.

65 5. Tax credits issued under the provisions of this section may be transferred,  
66 sold, or assigned.

67 6. (1) The issuance of tax credits authorized under this section shall cease and  
68 the department shall recoup from the taxpayer and deposit in the general revenue fund  
69 an amount equal to all credits previously issued to the taxpayer under this section, less  
70 any amounts previously repaid, increased by the amount of interest that would have  
71 been earned on the amount of such tax credits, in the event that the taxpayer:

72 (a) Fails to complete construction of a full-service grocery store within five years  
73 of the commencement of the project; or

74 (b) Fails to operate a full-service grocery store at the same new location for at  
75 least ten consecutive years.

76 (2) A taxpayer shall annually submit a report to the department, on a form to be  
77 developed by the department, indicating that the taxpayer is in compliance with the  
78 provisions of this section.

79 7. The department may promulgate rules to implement the provisions of this  
80 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
81 created under the authority delegated in this section shall become effective only if it  
82 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
83 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
84 vested with the general assembly pursuant to chapter 536 to review, to delay the  
85 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
86 then the grant of rulemaking authority and any rule proposed or adopted after August  
87 28, 2024, shall be invalid and void.

88 8. Under section 23.253 of the Missouri sunset act:

89 (1) The program authorized under this section shall automatically sunset on  
90 December thirty-first six years after the effective date of this section, unless  
91 reauthorized by an act of the general assembly;

92 (2) If such program is reauthorized, the program authorized under this section  
93 shall automatically sunset on December thirty-first twelve years after the effective date  
94 of the reauthorization of this section;

95           **(3) This section shall terminate on September first of the calendar year**  
96 **immediately following the calendar year in which the program authorized under this**  
97 **section is sunset; and**

98           **(4) Nothing in this subsection shall prevent a taxpayer from claiming a tax credit**  
99 **properly issued before the program was sunset in a tax year after the program is sunset.**

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