

# HOUSE BILL NO. 3118

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CASTEEL.

6650H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal section 32.115, RSMo, and to enact in lieu thereof one new section relating to benevolent tax credits.

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

Section A. Section 32.115, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 32.115, to read as follows:

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

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

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

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

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

(5) The corporation franchise tax in chapter 147;

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

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

2. For proposals approved pursuant to section 32.110:

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

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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. For any  
114 fiscal year in which the total amount of tax credits authorized for programs approved pursuant  
115 to section 32.111 is less than ten million dollars, such amount not authorized may be  
116 authorized for programs approved pursuant to section 32.112 during the same fiscal year,  
117 provided that the total combined amount of tax credits for programs approved pursuant to  
118 sections 32.111 and 32.112 during the fiscal year does not exceed eleven million dollars.

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

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