

FIRST REGULAR SESSION

SENATE BILL NO. 470

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRAHAM.

Read 1st time February 7, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0644S.02I

AN ACT

To repeal section 32.115, RSMo, and to enact in lieu thereof two new sections relating to a tax credit for contributions to support the preservation of Missouri's civil war sites.

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

Section A. Section 32.115, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 32.115 and 135.571, to read as follows: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, RSMo;
- (2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030, RSMo;
- (3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;
- (4) The tax on other financial institutions in chapter 148, RSMo;
- (5) The corporation franchise tax in chapter 147, RSMo;
- (6) The state income tax in chapter 143, RSMo; and
- (7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. For proposals approved pursuant to section 32.110:

- (1) The amount of the tax credit shall not exceed fifty 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;

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

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

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

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

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

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

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

55 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six
56 million shall be credits allowed pursuant to section 135.460, RSMo. If six million
57 dollars in credits are not approved, then the remaining credits may be used for
58 programs approved pursuant to sections 32.100 to 32.125 **and section 135.571,**
59 **RSMo, with the first one hundred thousand dollars in tax credits**
60 **remaining to be issued as provided under section 135.571, RSMo;**

61 (5) The credit may exceed two hundred fifty thousand dollars annually
62 and shall not be limited if community services, crime prevention, education, job
63 training, physical revitalization or economic development, as defined by section
64 32.105, is rendered in an area defined by federal or state law as an impoverished,
65 economically distressed, or blighted area or as a neighborhood experiencing
66 problems endangering its existence as a viable and stable neighborhood, or if the
67 community services, crime prevention, education, job training, physical
68 revitalization or economic development is limited to impoverished persons.

69 3. For proposals approved pursuant to section 32.111:

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

91 approved reaches ten million dollars in any fiscal year;

92 (2) For any year during the compliance period indicated in the land use
93 restriction agreement, the owner of the affordable housing rental units for which
94 a credit is being claimed shall certify to the commission that all tenants renting
95 claimed units are income eligible for affordable housing units and that the rentals
96 for each claimed unit are in compliance with the provisions of sections 32.100 to
97 32.125. The commission is authorized, in its discretion, to audit the records and
98 accounts of the owner to verify such certification;

99 (3) In the case of owner-occupied affordable housing units, the qualifying
100 owner occupant shall, before the end of the first year in which credits are
101 claimed, certify to the commission that the occupant is income eligible during the
102 preceding two years, and at the time of the initial purchase contract, but not
103 thereafter. The qualifying owner occupant shall further certify to the commission,
104 before the end of the first year in which credits are claimed, that during the
105 compliance period indicated in the land use restriction agreement, the cost of the
106 affordable housing unit to the occupant for the claimed unit can reasonably be
107 projected to be in compliance with the provisions of sections 32.100 to
108 32.125. Any succeeding owner occupant acquiring the affordable housing unit
109 during the compliance period indicated in the land use restriction agreement
110 shall make the same certification;

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

124 4. For proposals approved pursuant to section 32.112, the amount of the
125 tax credit shall not exceed fifty-five percent of the total amount contributed to a
126 neighborhood organization by business firms. Any tax credit not used in the

127 period for which the credit was approved may be carried over the next ten
128 succeeding calendar or fiscal years until the full credit has been allowed. The
129 total amount of tax credit granted for programs approved pursuant to section
130 32.112 shall not exceed one million dollars for each fiscal year.

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

135.571. 1. As used in this section, the following terms shall
2 mean:

3 (1) "Contribution", a payment, gift, loan, advance, deposit, or
4 donation of money or anything of value for the purpose of supporting
5 membership organizations created under chapter 355, RSMo, for the
6 purpose of preserving sites located within the state associated with the
7 Civil War. A contribution of anything of value shall be deemed to have
8 a money value equivalent to the fair market value. "Contribution"
9 includes, but is not limited to:

10 (a) A taxpayer's own money or property used in support of an
11 eligible organization for the preservation of Missouri's Civil War sites
12 other than expense of the taxpayer's food, lodging, or travel;

13 (b) Payment by a taxpayer to compensate another person for
14 services rendered to preserve Missouri's Civil War sites, which has
15 been approved by an eligible organization;

16 (c) Donation of goods and services, including the gift of
17 advertising space in a brochure, booklet, program, pamphlet, or signs
18 to an eligible organization;

19 (d) Donation of money, goods, property, or services for the
20 creation of signs, pathways, parking, lighting, landscaping, National
21 Register Designation, and environmental and appraisal costs associated
22 with the preservation of Missouri's Civil War sites approved by an
23 eligible organization;

24 (e) Payments made or services rendered to an eligible
25 organization, its affiliate, or agent for the acquisition of trademark
26 rights, and consulting by employees and agents of a taxpayer;

27 (f) Facilities, office space, or equipment supplied by any person
28 without charge or at reduced charges, except gratuitous space for
29 meeting purposes which is made available regularly to the public, to an

30 eligible organization for purposes of the preservation of Missouri's
31 Civil War sites;

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

34 (3) "Director", the director of the Missouri department of
35 economic development;

36 (4) "Eligible organization", a membership organization created
37 under chapter 355, RSMo, having among its purposes according to its
38 article of incorporation the preservation of sites located within the
39 state associated with the Civil War, and having been in existence for
40 two years prior to application for certification under this section;

41 (5) "State Tax Liability", in the case of a business taxpayer, any
42 liability incurred by such taxpayer pursuant to the provisions of
43 chapters 143, 147, and 153, RSMo, and related provisions, and in the
44 case of an individual taxpayer, any liability incurred by such taxpayer
45 pursuant to the provisions of chapter 143, RSMo, excluding sections
46 143.191 to 143.265, RSMo, and related provisions;

47 (6) "Taxpayer", a person, firm, a partner in a firm, corporation,
48 or a shareholder in an S corporation doing business in the state of
49 Missouri and subject to the state income tax imposed by the provisions
50 of chapter 143, RSMo, or a corporation subject to the annual
51 corporation franchise tax imposed by the provisions of chapter 147,
52 RSMo, or an insurance company paying an annual tax on its gross
53 premium receipts in this state, or other financial institution paying
54 taxes to the state of Missouri or any political subdivision of this state
55 under the provisions of chapter 148, RSMo, or an individual subject to
56 the state income tax imposed by the provisions of chapter 143, RSMo;

57 2. For tax years beginning on or after January 1, 2008, a
58 taxpayer shall be allowed a credit in an amount equal to fifty percent
59 of the amount of contribution made to an eligible organization for the
60 preservation of Missouri's Civil War sites. The tax credit authorized by
61 this section shall be fully transferrable, assignable, and saleable. In the
62 case where the credits issued under this section to a taxpayer exceed
63 such taxpayer's tax liability, the excess shall not result in a
64 refund. Such excess credit may be carried forward the next five years
65 until fully claimed. In no case shall the amount of tax credit issued
66 under this section exceed one hundred thousand dollars in any given

67 tax year. In no case shall a taxpayer receive more than twenty-five
68 thousand dollars in tax credits issued under this section in any given
69 tax year. To the extent there are tax credits remaining unissued under
70 subsection 2 of section 32.115, RSMo, the first one hundred thousand
71 dollars of tax credits remaining shall be made available for issuance
72 under this section.

73 3. An organization desiring certification by the department as an
74 eligible organization shall make application to the department. The
75 department shall examine the organization and determine eligibility as
76 provided in this section. Upon certification, the department shall
77 notify the director of the department of revenue as to the
78 organization's eligibility under the provisions of this section.

79 4. The department and the department of revenue shall
80 promulgate rules necessary for the implementation of the provisions of
81 this section. Any rule or portion of a rule, as that term is defined in
82 section 536.010, RSMo, that is created under the authority delegated in
83 this section shall become effective only if it complies with and is
84 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
85 section 536.028, RSMo. This section and chapter 536, RSMo, are
86 nonseverable and if any of the powers vested with the general assembly
87 pursuant to chapter 536, RSMo, to review, to delay the effective date,
88 or to disapprove and annul a rule are subsequently held
89 unconstitutional, then the grant of rulemaking authority and any rule
90 proposed or adopted after August 28, 2007, shall be invalid and void.

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