

SENATE BILL NO. 490

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNELTING.

1544S.01I

KRISTINA MARTIN, Secretary

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Section A. Sections 32.115 and 135.460, RSMo, are repealed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

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

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

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

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

10 (4) The tax on other financial institutions in chapter
11 148;

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

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

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

16 2. For proposals approved pursuant to section 32.110:

17 (1) The amount of the tax credit shall not exceed
18 **[fifty]** **seventy** percent of the total amount contributed

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 during the taxable year by the business firm or, in the case
20 of a financial institution, where applicable, during the
21 relevant income period in programs approved pursuant to
22 section 32.1110;

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

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

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

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

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

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

50 (4) Such tax credit allocation, equal to seventy
51 percent of the total amount contributed, shall not exceed
52 four million dollars in fiscal year 1999 and six million
53 dollars in fiscal year 2000 and any subsequent fiscal year.
54 When the maximum dollar limit on the seventy percent tax
55 credit allocation is committed, the tax credit allocation
56 for such programs shall then be equal to fifty percent
57 credit of the total amount contributed. Regulations
58 establishing special program priorities are to be
59 promulgated during the first month of each fiscal year and
60 at such times during the year as the public interest
61 dictates. Such credit shall not exceed two hundred and
62 fifty thousand dollars annually except as provided in
63 subdivision (5) of this subsection. No tax credit shall be
64 approved for any bank, bank and trust company, insurance
65 company, trust company, national bank, savings association,
66 or building and loan association for activities that are a
67 part of its normal course of business. Any tax credit not
68 used in the period the contribution was made may be carried
69 over the next five succeeding calendar or fiscal years until
70 the full credit has been claimed. Except as otherwise
71 provided for proposals approved pursuant to section 32.111,
72 32.112 or 32.117, in no event shall the total amount of all
73 other tax credits allowed pursuant to sections 32.100 to
74 32.125 exceed thirty-two million dollars in any one fiscal
75 year, of which six million shall be credits allowed pursuant
76 to section 135.460. If six million dollars in credits are
77 not approved, then the remaining credits may be used for
78 programs approved pursuant to sections 32.100 to 32.125;

79 (5) The credit may exceed two hundred fifty thousand
80 dollars annually and shall not be limited if community
81 services, crime prevention, education, job training,

82 physical revitalization or economic development, as defined
83 by section 32.105, is rendered in an area defined by federal
84 or state law as an impoverished, economically distressed, or
85 blighted area or as a neighborhood experiencing problems
86 endangering its existence as a viable and stable
87 neighborhood, or if the community services, crime
88 prevention, education, job training, physical revitalization
89 or economic development is limited to impoverished persons.

90 3. For proposals approved pursuant to section 32.111:

91 (1) The amount of the tax credit shall not exceed
92 fifty-five percent of the total amount invested in
93 affordable housing assistance activities or market rate
94 housing in distressed communities as defined in section
95 135.530 by a business firm. Whenever such investment is
96 made in the form of an equity investment or a loan, as
97 opposed to a donation alone, tax credits may be claimed only
98 where the loan or equity investment is accompanied by a
99 donation which is eligible for federal income tax charitable
100 deduction, and where the total value of the tax credits
101 herein plus the value of the federal income tax charitable
102 deduction is less than or equal to the value of the
103 donation. Any tax credit not used in the period for which
104 the credit was approved may be carried over the next ten
105 succeeding calendar or fiscal years until the full credit
106 has been allowed. If the affordable housing units or market
107 rate housing units in distressed communities for which a tax
108 is claimed are within a larger structure, parts of which are
109 not the subject of a tax credit claim, then expenditures
110 applicable to the entire structure shall be reduced on a
111 prorated basis in proportion to the ratio of the number of
112 square feet devoted to the affordable housing units or
113 market rate housing units in distressed communities, for

114 purposes of determining the amount of the tax credit. The
115 total amount of tax credit granted for programs approved
116 pursuant to section 32.111 for the fiscal year beginning
117 July 1, 1991, shall not exceed two million dollars, to be
118 increased by no more than two million dollars each
119 succeeding fiscal year, until the total tax credits that may
120 be approved reaches ten million dollars in any fiscal year;

121 (2) For any year during the compliance period
122 indicated in the land use restriction agreement, the owner
123 of the affordable housing rental units for which a credit is
124 being claimed shall certify to the commission that all
125 tenants renting claimed units are income eligible for
126 affordable housing units and that the rentals for each
127 claimed unit are in compliance with the provisions of
128 sections 32.100 to 32.125. The commission is authorized, in
129 its discretion, to audit the records and accounts of the
130 owner to verify such certification;

131 (3) In the case of owner-occupied affordable housing
132 units, the qualifying owner occupant shall, before the end
133 of the first year in which credits are claimed, certify to
134 the commission that the occupant is income eligible during
135 the preceding two years, and at the time of the initial
136 purchase contract, but not thereafter. The qualifying owner
137 occupant shall further certify to the commission, before the
138 end of the first year in which credits are claimed, that
139 during the compliance period indicated in the land use
140 restriction agreement, the cost of the affordable housing
141 unit to the occupant for the claimed unit can reasonably be
142 projected to be in compliance with the provisions of
143 sections 32.100 to 32.125. Any succeeding owner occupant
144 acquiring the affordable housing unit during the compliance

145 period indicated in the land use restriction agreement shall
146 make the same certification;

147 (4) If at any time during the compliance period the
148 commission determines a project for which a proposal has
149 been approved is not in compliance with the applicable
150 provisions of sections 32.100 to 32.125 or rules promulgated
151 therefor, the commission may within one hundred fifty days
152 of notice to the owner either seek injunctive enforcement
153 action against the owner, or seek legal damages against the
154 owner representing the value of the tax credits, or
155 foreclose on the lien in the land use restriction agreement,
156 selling the project at a public sale, and paying to the
157 owner the proceeds of the sale, less the costs of the sale
158 and less the value of all tax credits allowed herein. The
159 commission shall remit to the director of revenue the
160 portion of the legal damages collected or the sale proceeds
161 representing the value of the tax credits. However, except
162 in the event of intentional fraud by the taxpayer, the
163 proposal's certificate of eligibility for tax credits shall
164 not be revoked.

165 4. For proposals approved pursuant to section 32.112,
166 the amount of the tax credit shall not exceed fifty-five
167 percent of the total amount contributed to a neighborhood
168 organization by business firms. Any tax credit not used in
169 the period for which the credit was approved may be carried
170 over the next ten succeeding calendar or fiscal years until
171 the full credit has been allowed. The total amount of tax
172 credit granted for programs approved pursuant to section
173 32.112 shall not exceed one million dollars for each fiscal
174 year.

175 5. The total amount of tax credits used for market
176 rate housing in distressed communities pursuant to sections

177 32.100 to 32.125 shall not exceed thirty percent of the
178 total amount of all tax credits authorized pursuant to
179 sections 32.111 and 32.112.

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

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

11 3. A taxpayer shall be allowed a tax credit against
12 the tax otherwise due pursuant to chapter 143, excluding
13 withholding tax imposed by sections 143.191 to 143.265,
14 chapter 147, chapter 148, or chapter 153 in an amount equal
15 to thirty percent for property contributions and **[fifty]**
16 **seventy** percent for monetary contributions of the amount
17 such taxpayer contributed to the programs described in
18 subsection 5 of this section, not to exceed two hundred
19 thousand dollars per taxable year, per taxpayer; except as
20 otherwise provided in subdivision (5) of subsection 5 of
21 this section. The department of economic development shall
22 prescribe the method for claiming the tax credits allowed in
23 this section. No rule or portion of a rule promulgated
24 under the authority of this section shall become effective
25 unless it has been promulgated pursuant to the provisions of
26 chapter 536. All rulemaking authority delegated prior to
27 June 27, 1997, is of no force and effect and repealed;
28 however, nothing in this section shall be interpreted to
29 repeal or affect the validity of any rule filed or adopted

30 prior to June 27, 1997, if such rule complied with the
31 provisions of chapter 536. The provisions of this section
32 and chapter 536 are nonseverable and if any of the powers
33 vested with the general assembly pursuant to chapter 536,
34 including the ability to review, to delay the effective
35 date, or to disapprove and annul a rule or portion of a
36 rule, are subsequently held unconstitutional, then the
37 purported grant of rulemaking authority and any rule so
38 proposed and contained in the order of rulemaking shall be
39 invalid and void.

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

45 5. The tax credit allowed by this section may only be
46 claimed for monetary or property contributions to public or
47 private programs authorized to participate pursuant to this
48 section by the department of economic development and may be
49 claimed for the development, establishment, implementation,
50 operation, and expansion of the following activities and
51 programs:

52 (1) An adopt-a-school program. Components of the
53 adopt-a-school program shall include donations for school
54 activities, seminars, and functions; school-business
55 employment programs; and the donation of property and
56 equipment of the corporation to the school;

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

60 (3) Employment programs. Such programs shall
61 initially, but not exclusively, target unemployed youth

62 living in poverty and youth living in areas with a high
63 incidence of crime;

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

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

71 (6) Mentor and role model programs;

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

74 (8) Donation of property or equipment of the taxpayer
75 to schools, including schools which primarily educate
76 children who have been expelled from other schools, or
77 donation of the same to municipalities, or not-for-profit
78 corporations or other not-for-profit organizations which
79 offer programs dedicated to youth violence prevention as
80 authorized by the department;

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

83 (10) Nonviolent conflict resolution and mediation
84 programs;

85 (11) Youth outreach and counseling programs.

86 6. Any program authorized in subsection 5 of this
87 section shall, at least annually, submit a report to the
88 department of economic development outlining the purpose and
89 objectives of such program, the number of youth served, the
90 specific activities provided pursuant to such program, the
91 duration of such program and recorded youth attendance where
92 applicable.

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

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

100 9. For the purposes of the credits described in this
101 section, in the case of a corporation described in section
102 143.471, partnership, limited liability company described in
103 section 347.015, cooperative, marketing enterprise, or
104 partnership, in computing Missouri's tax liability, such
105 credits shall be allowed to the following:

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

108 (2) The partners of the partnership;

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

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

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

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