FIRST REGULAR SESSION

[P E R F E C T E D**]**

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 282

90TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organization, February 10, 1999, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 282, adopted February 23, 1999.

Taken up for Perfection February 23, 1999. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S0831.02P

AN ACT

To repeal section 135.530, RSMo Supp. 1998, relating to tax credit programs administered by the department of economic development, and to enact in lieu thereof six new sections relating to the same subject, with an effective date for certain sections.

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

Section A. Section 135.530, RSMo Supp. 1998, is repealed and six new sections enacted in lieu thereof, to be known as sections 135.530, 135.811, 135.812, 135.814, 135.817 and 135.821, to read as follows:

135.530. For the purposes of this act, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the last decennial census, or **[**the**]** **a** United States Census Block Group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred, and **[**which has**]** **each block group having** a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the last decennial census. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of **under** seventy percent of the

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

median household income for the nonmetropolitan areas in Missouri according to the last decennial census or a Census Block Group or contiguous group of block groups which has a population of at least two thousand five hundred [which has] **each block group having** a median household income of **under** seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the last decennial census.

135.811. As used in sections 135.811 to 135.821, the following terms mean:

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

(2) "Eligible costs for new construction", expenses incurred for property acquisition, development, site clearance and preparation, surveys, architectural and engineering services, and construction, that is not replacing national register listed or local historic properties; except that, costs paid for by the taxpayer with grants, forgivable loans or tax credits provided pursuant to state or federal governmental programs are ineligible;

(3) "Eligible costs for rehabilitation", expenses incurred for the rehabilitation of an existing residence which is forty years of age or older for development and site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration, replacements and renovations; except that, costs paid for by the taxpayer with grants, forgivable loans or tax credits provided pursuant to state or federal governmental programs are ineligible;

(4) "Eligible residence", a single family residence, forty years of age or older, located in this state which is or will be owner-occupied for at least five years after the completion of the project and which is either located within a United States census block group in a metropolitan statistical area which has a median household income of less than ninety percent of the median household income for the metropolitan statistical area, or which is located within a United States census block group in a nonmetropolitan area which has a median household income of less than ninety percent of the median household income for a nonmetropolitan area in the state;

(5) "Project", new construction, rehabilitation or substantial rehabilitation of a residence that qualified for a tax credit under the provisions of sections 135.811 through 135.821;

(6) "Qualifying residence", an eligible residence as defined in subdivision (4) of this section, except that the median household income of the census block group in which the residence is located shall be less than seventy percent of the median household income of the metropolitan statistical area or nonmetropolitan area, respectively;

(7) "Substantial rehabilitation", rehabilitation the costs of which exceed fifty percent of the basis of the residence prior to rehabilitation;

(8) "Tax liability", the tax due pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo;

(9) "Taxpayer", any person, partnership, corporation, trust or limited liability company.

135.812. 1. The department of economic development shall establish a rural housing development revolving loan program as provided in this section. Any taxpayer may receive a tax credit for funds provided to the department for the establishment of this program but not to exceed a total of three million dollars.

2. The program shall be used to provide loans for the construction of single family houses within incorporated communities with a population of five thousand or less in third class counties.

3. The loans shall be no-interest loans made to nonprofit corporations. The amount of each loan shall be no more than seventy thousand dollars.

4. Any nonprofit corporation desiring to construct single family housing pursuant to this section shall apply to the department for such funds. The application shall include information pertaining to, but not limited to, the following:

(1) The area in which the housing is intended to be constructed;

(2) A statement about the need for single family housing in such area;

(3) The time period required for constructing each home and making it available on the market;

(4) A list of the officers, with addresses and phone numbers, of the corporation;

(5) The assets and experience of the corporation and the individual or agency who will advise such corporation in the construction of such housing; and

(6) A statement as to availability and cost of sewage and water lines for such housing.

5. The department shall award loan contracts to qualified nonprofit organizations according to a statement of need and compliance with this section.

6. The department shall set control criteria that could result in the expiration of the loan, may require reasonable reports on the progress of housing construction and may inspect the construction sites and records of the nonprofit corporation.

7. A nonprofit corporation receiving a loan shall place the funds in a revolving account to be used to pay for the costs of construction, buying, selling, and preparing a property. Any interest earned on the account shall be kept in the revolving account and used for the same purposes.

8. Upon the sale of a home, the proceeds shall be placed in the revolving fund and used to fund the construction of another home or to repay a loan. Any deficit on a loan shall be repaid by the nonprofit corporation. Any surplus remaining after repayment of a loan shall remain in the revolving fund to be used for the public benefit

in development or rehabilitation of housing.

9. Separate records shall be kept for the costs of each home built by the nonprofit corporation.

10. The construction of homes by nonprofit corporations pursuant to this section shall be done on site at a location where water and sewage services are available. Cities and other political subdivisions may waive the costs of connecting utilities or providing building permits or other services.

11. All homes shall be constructed in accordance with the rural development building standards of the United States Department of Agriculture, but additional consideration may be given to those entities constructing homes which incorporate basic elements of universal design for elderly and disabled occupants.

12. The nonprofit corporation may contract with other entities for the buying and selling of property and for construction of housing pursuant to this section.

13. Homes constructed by nonprofit corporations pursuant to this section shall be sold at cost plus a two thousand five hundred dollar administration fee. The administration fee may be used to pay an individual or agency with previous experience in housing construction for supervising the purchase of land and construction of each house. Any such agent of the corporation shall ensure that all legal and insurance requirements are met. Any part of the administration fee remaining after paying such costs shall be placed into the revolving fund.

14. The buyer of the home may use any available financing mechanism to make the purchase, including any other state or federal assistance programs.

15. The nonprofit corporation shall establish priorities for selling the homes constructed to low income or moderate income persons and families, as defined in section 215.010, insofar as such buyers have financing arrangements completed previous to occupancy. The nonprofit corporation shall contact any local housing authority or community housing development organization to ascertain qualified buyers prior to the completion of construction.

16. The sale contract shall contain a clause to prevent speculative purchases. The clause shall require an interest-free second mortgage to be obtained for the difference between the sale price and the appraised price, if any. The interest-free second mortgage shall be payable to the nonprofit organization and shall become due and payable to such organization if the buyer of the home sells the property prior to five years of ownership. The interest-free second mortgage shall be null and void after a period of five years following the closing date of the home purchase if the following requirements are met:

(1) The home has been the primary home of the purchaser for a period of five years after the closing date; and

(2) The property has not been used as rental property for such five-year period.

135.814. 1. Any taxpayer who owns and occupies an eligible residence or a qualifying residence shall receive a tax credit equal to fifteen percent against his tax liability for the construction of that residence. The eligible or qualifying residence must be constructed on real property formerly improved by a residence forty years of age or older, demolished for purposes of constructing a replacement residence or on vacant property which has for not less than forty continuous years been classified as residential property or utility, commercial, railroad or other real property pursuant to article X, section 4(b) of the Missouri Constitution, as defined in section 137.016, RSMo. The tax credit shall not exceed twenty-five thousand dollars per eligible or qualifying residence in any ten-year period.

2. Any taxpayer who owns and occupies an eligible residence or a qualifying residence shall receive a tax credit equal to twenty-five percent against his tax liability of the eligible costs for rehabilitation of the existing eligible or qualifying residence. The minimum eligible costs for rehabilitation of an eligible residence shall be ten thousand dollars. The minimum eligible costs for rehabilitation of a qualifying residence shall be five thousand dollars. The tax credit shall not exceed twenty-five thousand dollars per eligible or qualifying residence in any ten-year period.

3. Any taxpayer who owns and occupies a qualifying residence shall receive a tax credit equal to thirty-five percent against his tax liability of the eligible costs of rehabilitation of substantial rehabilitation of the qualifying residence. The minimum eligible costs of rehabilitation of substantial rehabilitation of a qualifying residence shall be ten thousand dollars.

4. No single residence shall qualify as both an eligible residence and a qualifying residence.

135.817. 1. The total amount of tax credits which may be issued annually pursuant to the provisions of sections 135.811 through 135.821 is fifteen million dollars.

2. Any amount of credit which exceeds the tax liability of the taxpayer in which the credit is first claimed may be carried back to any of the taxpayer's two prior tax years and carried forward to any of the taxpayer's five subsequent taxable years. A certificate of tax credit issued to the taxpayer by the department may be assigned, transferred, sold or otherwise conveyed, subject to the terms and conditions prescribed in subdivisions (1) to (4) of this subsection. Such taxpayer, hereinafter the assignor for the purpose of this subsection, may assign, transfer, sell or otherwise convey such tax credits:

(1) For no less than seventy-five percent of the par value of such credits;

(2) The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer

by notifying the department in writing within thirty calendar days following the effective day of the transfer, and shall provide any information as may be required by the department to administer and carry out the provisions of this section;

(3) The assignee may not have any financial interest in any contract with the assignor or in any firm which has a contract with the assignor relating to financing or providing services included in the eligible costs for new construction or the eligible costs for rehabilitation that give rise to any tax credit granted pursuant to section 135.814; and

(4) Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the par value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit and its value.

3. A taxpayer who is the owner-occupant of a residence shall be deemed to have earned the tax credit issued pursuant to sections 135.811 through 135.821 in the taxable year during which the eligible costs were incurred. The department shall cause to be filed of record in the recorder's office of the county in which the property is located the agreement that the property shall be owner-occupied for at least five years and that, should said agreement be violated, the state shall be reimbursed for the amount of the tax credit and a lien may be placed against the property for any amount owed but not paid.

135.821. A taxpayer shall submit an application for the tax credit allowed pursuant to sections 135.811 through 135.821 to the department. The director of the department shall, upon approval of an application and presentation of acceptable proof of substantial completion of construction, issue to taxpayers certificates of tax credit in the order applications were received. The department may promulgate such rules or regulations, or issue administrative guidelines, as are necessary to administer the provisions of sections 135.811 to 135.821. No such rule or regulation shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. The department may cooperate with the county in which a project is located to help identify the location of the project, the type and eligibility of the project, the estimated cost of the project and the completion date of the project.

Section B. The provisions of sections 135.811 through 135.821 shall become effective on January 1, 2000.

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