

FIRST REGULAR SESSION

# HOUSE BILL NO. 1136

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HUGHES (Sponsor), LeBLANC, BROWN (50), BURNETT,  
KANDER, MEINERS, TILLEY, CURLS, SKAGGS, McDONALD, GRILL,  
HOLSMAN AND TALBOY (Co-sponsors).

2478L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 99.1205, RSMo, and to enact in lieu thereof one new section relating to the land assemblage tax credit program.

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

Section A. Section 99.1205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.1205, to read as follows:

99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land Assemblage Tax Credit Act".

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

(1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for a period of five years after the acquisition of such eligible parcel. Acquisition costs shall not include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from a municipality;

(2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation which has:

(a) Incurred, within an eligible project area, acquisition costs for the acquisition of land sufficient to satisfy the requirements under subdivision (8) of this subsection; and

(b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop

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.

16 an urban renewal area or a redevelopment area that includes all of an eligible project area or  
17 whose redevelopment plan or redevelopment area, which encompasses all of an eligible project  
18 area, has been approved or adopted under an economic incentive law. In addition to being  
19 designated the redeveloper, the applicant shall have been designated to receive economic  
20 incentives only after the municipal authority has considered the amount of the tax credits in  
21 adopting such economic incentives as provided in subsection 8 of this section. The  
22 redevelopment agreement shall provide that:

23 a. The funds generated through the use or sale of the tax credits issued under this section  
24 shall be used to redevelop the eligible project area;

25 b. No more than seventy-five percent of the urban renewal area identified in the urban  
26 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped  
27 by the applicant; and

28 c. The remainder of the urban renewal area or the redevelopment area shall be  
29 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its  
30 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

31 (3) "Certificate", a tax credit certificate issued under this section;

32 (4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to  
33 initiate an action in a court of competent jurisdiction to use the power of eminent domain to  
34 acquire a parcel within the eligible project area. Condemnation proceedings shall include any  
35 and all actions taken after the submission of a notice of intended acquisition to an owner of a  
36 parcel within the eligible project area by a municipal authority or any other person or entity under  
37 section 523.250, RSMo;

38 (5) "Department", the Missouri department of economic development;

39 (6) "Economic incentive laws", any provision of Missouri law pursuant to which  
40 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,  
41 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment  
42 projects approved or adopted which include the use of economic incentives to redevelop the land.  
43 Economic incentive laws include, but are not limited to, the land clearance for redevelopment  
44 authority law under sections 99.300 to 99.660, the real property tax increment allocation  
45 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic  
46 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation  
47 program under sections 99.1080 to 99.1092;

48 (7) "Eligible parcel", a parcel:

49 (a) Which is located within an eligible project area;

50 (b) Which is to be redeveloped;

51 (c) On which the applicant has not commenced construction prior to November 28,  
52 2007;

53 (d) Which has been acquired without the commencement of any condemnation  
54 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel  
55 acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

56 (e) On which all outstanding taxes, fines, and bills levied by municipal governments that  
57 were levied by the municipality during the time period that the applicant held title to the eligible  
58 parcel have been paid in full;

59 (8) "Eligible project area", an area which shall have satisfied the following requirements:

60 (a) The eligible project area shall consist of at least [seventy-five] **forty** acres and may  
61 include parcels within its boundaries that do not constitute an eligible parcel;

62 (b) At least eighty percent of the eligible project area shall be located within a Missouri  
63 qualified census tract area, as designated by the United States Department of Housing and Urban  
64 Development under 26 U.S.C. Section 42, or within a distressed community as that term is  
65 defined in section 135.530, RSMo;

66 (c) The eligible parcels acquired by the applicant within the eligible project area shall  
67 total at least [fifty] **thirty** acres, which may consist of contiguous and noncontiguous parcels;

68 (d) The average number of parcels per acre in an eligible project area shall be four or  
69 more;

70 (e) Less than five percent of the acreage within the boundaries of the eligible project area  
71 shall consist of owner-occupied residences which the applicant has identified for acquisition  
72 under the urban renewal plan or the redevelopment plan pursuant to which the applicant was  
73 appointed or selected as the redeveloper or by which the person or entity was qualified as an  
74 applicant under this section on the date of the approval or adoption of such plan;

75 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include  
76 attorney's fees;

77 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of  
78 removing trash, and costs of cutting grass and weeds;

79 (11) "Municipal authority", any city, town, village, county, public body corporate and  
80 politic, political subdivision, or land trust of this state established and authorized to own land  
81 within the state;

82 (12) "Municipality", any city, town, village, or county;

83 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or  
84 recorded as the property of, one or more persons or entities;

85 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan  
86 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible

87 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or  
88 eliminated by redevelopment or rehabilitation; and

89 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement  
90 into which the applicant entered with a municipal authority and which is the agreement for the  
91 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant  
92 was appointed or selected as the redeveloper or by which the person or entity was qualified as  
93 an applicant under this section; and such appointment or selection shall have been approved by  
94 an ordinance of the governing body of the municipality, or municipalities, or in the case of any  
95 city not within a county, the board of aldermen, in which the eligible project area is located. The  
96 redevelopment agreement shall include a time line for redevelopment of the eligible project area.  
97 The redevelopment agreement shall state that the named developer shall be subject to the  
98 provisions of chapter 290, RSMo.

99 3. Any applicant shall be entitled to a tax credit against the taxes imposed under chapters  
100 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo, in an amount equal  
101 to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for  
102 a period of five years after the acquisition of an eligible parcel. No tax credits shall be issued  
103 under this section until after January 1, 2008.

104 4. If the amount of such tax credit exceeds the total tax liability for the year in which the  
105 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be  
106 carried forward for credit against the taxes imposed under chapters 143, 147, and 148, RSMo,  
107 for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant  
108 shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265, RSMo.  
109 Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax  
110 credits granted to a partnership, a limited liability company taxed as a partnership, or multiple  
111 owners of property shall be passed through to the partners, members, or owners respectively pro  
112 rata or pursuant to an executed agreement among the partners, members, or owners documenting  
113 an alternate distribution method.

114 5. A purchaser, transferee, or assignee of the tax credits authorized under this section  
115 may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise  
116 imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265,  
117 RSMo. A seller, transferor, or assignor shall perfect such transfer by notifying the department  
118 in writing within thirty calendar days following the effective date of the transfer and shall  
119 provide any information as may be required by the department to administer and carry out the  
120 provisions of this section.

121 6. To claim tax credits authorized under this section, an applicant shall submit to the  
122 department an application for a certificate. An applicant shall identify the boundaries of the

123 eligible project area in the application. The department shall verify that the applicant has  
124 submitted a valid application in the form and format required by the department. The department  
125 shall verify that the municipal authority held the requisite hearings and gave the requisite notices  
126 for such hearings in accordance with the applicable economic incentive act, and municipal  
127 ordinances. On an annual basis, an applicant may file for the tax credit for the acquisition costs,  
128 and for the tax credit for the interest costs, subject to the limitations of this section. If an  
129 applicant applying for the tax credit meets the criteria required under this section, the department  
130 shall issue a certificate in the appropriate amount. If an applicant receives a tax credit for  
131 maintenance costs as a part of the applicant's acquisition costs, the department shall post on its  
132 Internet web site the amount and type of maintenance costs and a description of the  
133 redevelopment project for which the applicant received a tax credit within thirty days after the  
134 department issues the certificate to the applicant.

135 7. The total aggregate amount of tax credits authorized under this section shall not  
136 exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued  
137 under this section exceed ten million dollars. If the tax credits that are to be issued under this  
138 section exceed, in any year, the ten million dollar limitation, the department shall either:

139 (1) Issue tax credits to the applicant in the amount of ten million dollars, if there is only  
140 one applicant entitled to receive tax credits in that year; or

141 (2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits  
142 in that year. Any amount of tax credits, which an applicant is, or applicants are, entitled to  
143 receive on an annual basis and are not issued due to the ten million dollar limitation, shall be  
144 carried forward for the benefit of the applicant or applicants to subsequent years. No tax credits  
145 provided under this section shall be authorized after August 28, 2013. Any tax credits which  
146 have been authorized on or before August 28, 2013, but not issued, may be issued, subject to the  
147 limitations provided under this subsection, until all such authorized tax credits have been issued.

148 8. Upon issuance of any tax credits pursuant to this section, the department shall report  
149 to the municipal authority the applicant's name and address, the parcel numbers of the eligible  
150 parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for  
151 which tax credits were issued, and the total value of the tax credits issued. The municipal  
152 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but  
153 shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created  
154 for the purpose of awarding other economic incentives. The amount of the tax credits shall not  
155 be considered an applicant's cost in the evaluation of the amount of any award of any other  
156 economic incentives, but shall be considered in measuring the reasonableness of the rate of  
157 return to the applicant with respect to such award of other economic incentives. The municipal  
158 authority shall provide the report to any relevant commission, board, or entity responsible for the

159 evaluation and recommendation or approval of other economic incentives to assist in the  
160 redevelopment of the eligible project area. Tax credits authorized under this section shall  
161 constitute redevelopment tax credits, as such term is defined under section 135.800 RSMo, and  
162 shall be subject to all provisions applicable to redevelopment tax credits provided under sections  
163 135.800 to 135.830 RSMo.

164 9. The department may promulgate rules to implement the provisions of this section.  
165 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
166 under the authority delegated in this section shall become effective only if it complies with and  
167 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
168 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested  
169 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,  
170 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
171 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid  
172 and void.

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