

SECOND REGULAR SESSION

# HOUSE BILL NO. 1143

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RIZZO.

Pre-filed December 5, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2927L.011

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### AN ACT

To repeal sections 135.478, 135.481, 135.484, 135.487, and 135.530, RSMo, and to enact in lieu thereof five new sections relating to tax credits for distressed communities.

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

Section A. Sections 135.478, 135.481, 135.484, 135.487, and 135.530, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 135.478, 135.481,  
3 135.484, 135.487, and 135.530, to read as follows:

135.478. As used in sections 135.481 to 135.487, the following terms mean:

- 2 (1) "Department", the department of economic development;
- 3 (2) "Director", the director of the department of economic development;
- 4 (3) "Distressed community", as defined in section 135.530;
- 5 (4) "Eligible costs for a new residence", expenses incurred for property acquisition,  
6 development, site preparation other than demolition, surveys, architectural and engineering  
7 services and construction and all other necessary and incidental expenses incurred for  
8 constructing a new market rate residence, which is or will be owner-occupied, which is not  
9 replacing a national register listed or local historic structure; except that, costs paid for by the  
10 taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or  
11 federal governmental programs are ineligible;
- 12 (5) "Eligible costs for rehabilitation", expenses incurred for the renovation or  
13 rehabilitation of an existing residence including site preparation, surveys, architectural and  
14 engineering services, construction, modification, expansion, remodeling, structural alteration,  
15 replacements and alterations; except that, costs paid for by the taxpayer with grants or forgivable

**EXPLANATION 6** Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 loans other than tax credits provided pursuant to state or federal governmental programs are  
17 ineligible;

18 (6) "Eligible residence", a single-family residence forty years of age or older, located in  
19 this state and not within a distressed community as defined by section 135.530, which is  
20 occupied or intended to be or occupied long-term by the owner or offered for sale at market rate  
21 for owner-occupancy and which is either located within a United States census block group  
22 which, if in a metropolitan statistical area, has a median household income of less than ninety  
23 percent, but greater than or equal to seventy percent of the median household income for the  
24 metropolitan statistical area in which the census block group is located, or which, if located  
25 within a United States census block group in a nonmetropolitan area, has a median household  
26 income of less than ninety percent, but greater than or equal to seventy percent of the median  
27 household income for the nonmetropolitan areas in the state. **An eligible residence shall**  
28 **include a condominium or residence within a multiple residential structure or a structure**  
29 **containing multiple single family residences;**

30 (7) "Flood plain", any land or area susceptible to being inundated by water from any  
31 source or located in a one hundred-year flood plain area determined by Federal Emergency  
32 Management Agency mapping as subject to flooding;

33 (8) "New residence", a residence constructed on land which if located within a distressed  
34 community has either been vacant for at least two years or is or was occupied by a structure  
35 which has been condemned by the local entity in which the structure is located or which, if  
36 located outside of a distressed community but within a census block group as described in  
37 subdivision (6) or (10) of this section, either replaces a residence forty years of age or older  
38 demolished for purposes of constructing a replacement residence, or which is constructed on  
39 vacant property which has been classified for not less than forty continuous years as residential  
40 or utility, commercial, railroad or other real property pursuant to article X, section 4(b) of the  
41 Missouri Constitution, as defined in section 137.016, RSMo, **or, if in a county of the third**  
42 **classification without a township form of government and with more than fifty-four**  
43 **thousand two hundred but less than fifty-four thousand three hundred inhabitants, or a**  
44 **county of the first classification without a charter form of government and with more than**  
45 **two hundred forty thousand three hundred but less than two hundred forty thousand four**  
46 **hundred inhabitants, vacant property classified as agricultural and horticultural property,**  
47 **as defined in section 137.016, RSMo, that has not been used for agricultural purposes for**  
48 **at least five years and that is wholly within or contiguous to a central business district;**  
49 except that, no new residence shall be constructed in a flood plain or on property used for  
50 agricultural purposes **except as otherwise provided herein.** [In a distressed community,] The  
51 term "new residence" shall include condominiums, owner-occupied units or other units intended  
52 to be owner-occupied in multiple unit structures **or as separate adjacent single-family units;**

53 (9) "Project", new construction, rehabilitation or substantial rehabilitation of a residence  
54 **or residences, whether comprised of one structure containing multiple single-family**  
55 **residences or multiple individual structures** that [qualifies] **qualify** for a tax credit pursuant  
56 to sections 135.475 to 135.487;

57 (10) "Qualifying residence", a single-family residence, forty years of age or older,  
58 located in this state which is occupied or intended to be occupied long-term by the owner or  
59 offered for sale at market rate for owner-occupancy and which is located in a metropolitan  
60 statistical area or nonmetropolitan statistical area within a United States census block group  
61 which has a median household income of less than seventy percent of the median household  
62 income for the metropolitan statistical area or nonmetropolitan area, respectively, or which is  
63 located within a distressed community. A qualifying residence shall include a condominium or  
64 residence within a multiple residential structure or a structure containing multiple single-family  
65 residences which is located within a distressed community;

66 (11) "Substantial rehabilitation", rehabilitation the costs of which exceed fifty percent  
67 of either the purchase price or the cost basis of the structure immediately prior to rehabilitation;  
68 provided that, the structure is at least fifty years old notwithstanding any provision of sections  
69 135.475 to 135.487 to the contrary;

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

72 (13) "Taxpayer", any person, partnership, corporation, trust or limited liability company;

73 **(14) "Central business district", the area in a municipality which is and**  
74 **traditionally has been the location of the principal business, commercial, financial, service,**  
75 **and governmental center, zoned or used accordingly.**

135.481. 1. (1) Any taxpayer who incurs eligible costs for a new residence located in  
2 a distressed community or within a census block group as described in subdivision **(6) or** (10)  
3 of section 135.478, or for a multiple unit condominium described in subdivision (2) of this  
4 subsection, shall receive a tax credit equal to [fifteen] **twenty** percent of such costs against his  
5 or her tax liability. The tax credit shall not exceed forty thousand dollars per new residence in  
6 any ten-year period.

7 (2) For the purposes of this section, a "multiple unit condominium" is one that is  
8 intended to be owner occupied, which is constructed on property subject to an industrial  
9 development contract as defined in section 100.310, RSMo, and which lies within an area with  
10 a city zoning classification of urban redevelopment district established after January 1, 2000, and  
11 before December 31, 2001, and which is constructed in connection with the qualified  
12 rehabilitation of a structure more than ninety years old eligible for the historic structures  
13 rehabilitation tax credit described in sections 253.545 to 253.559, RSMo, and is under way by  
14 January 1, 2000, and completed by January 1, 2002.

15           2. [Any taxpayer who incurs eligible costs for a new residence located within a census  
16 block as described in subdivision (6) of section 135.478 shall receive a tax credit equal to fifteen  
17 percent of such costs against his or her tax liability. The tax credit shall not exceed twenty-five  
18 thousand dollars per new residence in any ten-year period.

19           3.] Any taxpayer who is not performing substantial rehabilitation and who incurs eligible  
20 costs for rehabilitation of an eligible residence or a qualifying residence shall receive a tax credit  
21 equal to twenty-five percent of such costs against his or her tax liability. The minimum eligible  
22 costs for rehabilitation of an eligible residence shall be ten thousand dollars. The minimum  
23 eligible costs for rehabilitation of a qualifying residence shall be five thousand dollars. The tax  
24 credit shall not exceed twenty-five thousand dollars in any ten-year period.

25           [4.] 3. Any taxpayer who incurs eligible costs for substantial rehabilitation of a  
26 qualifying residence shall receive a tax credit equal to thirty-five percent of such costs against  
27 his or her tax liability. The minimum eligible costs for substantial rehabilitation of a qualifying  
28 residence shall be ten thousand dollars. The tax credit shall not exceed seventy thousand dollars  
29 in any ten-year period.

30           [5.] 4. A taxpayer shall be eligible to receive tax credits for new construction or  
31 rehabilitation pursuant to only one subsection of this section.

32           [6.] 5. No tax credit shall be issued pursuant to this section for any structure which is in  
33 violation of any municipal or county property, maintenance or zoning code.

34           [7.] 6. No tax credit shall be issued pursuant to sections 135.475 to 135.487 for the  
35 construction or rehabilitation of rental property.

          135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section  
2 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax  
3 credits in any given year, eight million dollars shall be set aside for projects in areas described  
4 in subdivision (6) of section 135.478 and eight million dollars for projects in areas described in  
5 subdivision (10) of section 135.478. The maximum tax credit for a project consisting of  
6 multiple-unit qualifying residences in a distressed community **and commenced before August**  
7 **28, 2002, shall not exceed three million dollars, and the maximum tax credit for a project**  
8 **commenced on or after August 28, 2002, shall not exceed one million five hundred**  
9 **thousand dollars. If, by October first of any calendar year, the director has issued all eight**  
10 **million dollars of tax credits allowed for projects in areas described in subdivision (6) of**  
11 **section 135.478, but not for projects in areas described in subdivision (10) of section**  
12 **135.478, or vice versa, the director shall reallocate seventy percent of any credits not**  
13 **allocated to finally approved applications for issuance to taxpayers which:**

14           (1) Are engaged in projects in the area in which tax credits totaling eight million  
15 dollars have already been issued for the same year; and

16           (2) Have already applied for, but have not yet been issued, tax credits pursuant to

17 section 135.487 for the same year.

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19 **Reallocated credits shall be issued pursuant to section 135.487; except that, the maximum**  
20 **reallocated tax credit for any project shall not exceed five hundred thousand dollars.**

21 2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in  
22 which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years  
23 and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit  
24 issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed.  
25 Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a  
26 notarized endorsement shall be filed with the department specifying the name and address of the  
27 new owner of the tax credit and the value of the credit.

28 3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed  
29 in addition to any other state tax credits, with the exception of the historic structures  
30 rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, RSMo, which  
31 insofar as sections 135.475 to 135.487 are concerned may be claimed only in conjunction with  
32 the tax credit allowed pursuant to subsection [4] 3 of section 135.481. In order for a taxpayer  
33 eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant  
34 to subsection [4] 3 of section 135.481, the taxpayer must comply with the requirements of  
35 sections 253.545 to 253.559, RSMo, and in such cases, the amount of the tax credit pursuant to  
36 subsection [4] 3 of section 135.481 shall be limited to the lesser of twenty percent of the  
37 taxpayer's eligible costs or forty thousand dollars.

135.487. 1. To obtain any credit allowed pursuant to sections 135.475 to 135.487, a  
2 taxpayer shall submit to the department, for preliminary approval, an application for tax credit.  
3 The director shall, upon final approval of an application and presentation of acceptable proof of  
4 substantial completion of construction, issue the taxpayer a certificate of tax credit. **In the case**  
5 **of projects involving the new construction, rehabilitation or substantial rehabilitation of**  
6 **more than one residence, one application for tax credit may be submitted to the**  
7 **department for preliminary approval for the entire project, and the director shall issue the**  
8 **taxpayer a certificate of tax credit upon final approval of an application and presentation**  
9 **of acceptable proof of substantial completion of construction for each individual residence**  
10 **rather than delaying issuance of a tax credit pursuant to sections 135.475 to 135.487 until**  
11 **substantial completion of the entire project.** The director shall issue all credits allowed  
12 pursuant to sections 135.475 to 135.487 in the order the applications are received. In the case  
13 of a taxpayer other than an owner-occupant, the director shall not delay the issuance of a tax  
14 credit pursuant to sections 135.475 to 135.487 until the sale of a residence at market rate for  
15 owner-occupancy. A taxpayer, taxpayer other than an owner-occupant who receives a certificate  
16 of tax credit pursuant to sections 135.475 to 135.487 shall, within thirty days of the date of the

17 sale of a residence, furnish to the director satisfactory proof that such residence was sold at  
18 market rate for owner-occupancy. If the director reasonably determines that a residence was not  
19 in good faith intended for long-term owner occupancy, the director make revoke any tax credits  
20 issued and seek recovery of any tax credits issued pursuant to section 620.017, RSMo.

21         2. The department may cooperate with a municipality or a county in which a project is  
22 located to help identify the location of the project, the type and eligibility of the project, the  
23 estimated cost of the project and the completion date of the project.

24         3. The department may promulgate such rules or regulations or issue administrative  
25 guidelines as are necessary to administer the provisions of sections 135.475 to 135.487. No rule  
26 or portion of a rule promulgated pursuant to the authority of this section shall become effective  
27 unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

28         4. The department shall conduct annually a comprehensive program evaluation  
29 illustrating where the tax credits allowed pursuant to sections 135.475 to 135.487 are being  
30 utilized, explaining the economic impact of such program and making recommendations on  
31 appropriate program modifications to ensure the program's success.

135.530. For the purposes of sections 100.010, 100.710 and 100.850, RSMo, sections  
2 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530 and 135.545, section  
3 215.030, RSMo, sections 348.300 and 348.302, RSMo, and sections 620.1400 to 620.1460,  
4 RSMo, "distressed community" means either a Missouri municipality within a metropolitan  
5 statistical area which has a median household income of under seventy percent of the median  
6 household income for the metropolitan statistical area, according to the last decennial census,  
7 or a United States census block group or contiguous group of block groups within a metropolitan  
8 statistical area which has a population of at least [two thousand] five hundred, and each block  
9 group having a median household income of under seventy percent of the median household  
10 income for the metropolitan area in Missouri, according to the last decennial census. In addition  
11 the definition shall include municipalities not in a metropolitan statistical area, with a median  
12 household income of under seventy percent of the median household income for the  
13 nonmetropolitan areas in Missouri according to the last decennial census or a census block group  
14 or contiguous group of block groups which has a population of at least two thousand five  
15 hundred each block group having a median household income of under seventy percent of the  
16 median household income for the nonmetropolitan areas of Missouri, according to the last  
17 decennial census. **In metropolitan statistical areas, the definition shall include areas that**  
18 **are designated as either a federal empowerment zone, a federal enhanced enterprise**  
19 **community, or a state enterprise zone that was originally designated before January 1,**  
20 **1986, but will not include expansions of such zones done after March 16, 1988.**