

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 362
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means May 5, 2005, with recommendation that the House Committee Substitute No. 2 for Senate Substitute for Senate Bill No. 362 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

1572L.10C

AN ACT

To amend chapter 135, RSMo, by adding thereto two new sections relating to tax credits for residential care facilities and child placing agencies.

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

Section A. Chapter 135, RSMo, is amended by adding thereto two new sections, to be known as sections 135.1142 and 135.1144, to read as follows:

- 135.1142. 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".**
- 2. As used in this section, the following terms mean:**
- (1) "Certificate", a tax credit certificate issued under the provisions of this section;**
 - (2) "Department", the Missouri department of social services;**
 - (3) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, RSMo, or an individual subject to the state**

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.

13 income tax imposed by the provisions of chapter 143, RSMo;

14 (4) "Qualifying residential treatment agency" or "agency", a residential treatment
15 agency that is licensed under section 210.484, RSMo, and is under contract with the
16 Missouri department of social services to provide treatment services.

17 3. A taxpayer who makes a monetary donation to a qualifying residential treatment
18 agency may receive credit against taxes owed under chapter 143, RSMo, equal to fifty
19 percent of the amount of the donation, subject to the conditions and limitations of
20 subsection 4 of this section.

21 4. For the tax years beginning on or after January 1, 2006, the department shall
22 authorize the issuance of residential treatment agency tax credits. Application for a tax
23 credit shall be made to the department. Only a qualifying residential treatment agency
24 may submit an application for the tax credit on behalf of taxpayers making monetary
25 donations to the agency. Agencies may apply for tax credits in an aggregate amount that
26 does not exceed forty percent of the payments made by the department to the agency in the
27 preceding twelve months. A certificate shall be issued to the taxpayer by the department
28 after the department has verified that the agency has submitted the following items
29 accurately and completely:

30 (1) A valid application in the form and format required by the department;

31 (2) A statement attesting to the donation received, which shall include the name and
32 taxpayer identification number of the taxpayer making the donation, the amount of the
33 donation, and the date the donation was received by the agency; and

34 (3) Payment from the agency equal to the value of the tax credit for which
35 application is made.

36 5. For tax years beginning on or after January 1, 2006, the tax credits under this
37 subsection or subsection 4 of this section may be used to satisfy taxes owed under chapter
38 143 or 147, RSMo, excluding sections 143.191 to 143.265, RSMo, in the tax year the credit
39 is certified or that was owed during the previous three years. Any unused portion of the
40 tax credit authorized under this section may be carried forward for up to four years.

41 6. Certificates issued in accordance with this section may be transferred, sold, or
42 assigned by notarized endorsement, which names the transferee.

43 7. The department of social services shall promulgate such rules and regulations
44 as are necessary to implement the provisions of this section. Any rule or portion of a rule,
45 as that term is defined in section 536.010, RSMo, that is created under the authority
46 delegated in this section shall become effective only if it complies with and is subject to all
47 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
48 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the

49 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or
50 to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
51 rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be
52 invalid and void.

135.1144. 1. As used in this section, the following terms mean:

2 (1) "Agency", an agency that places children that is licensed pursuant to sections
3 210.481 to 210.536, RSMo, and accredited by the council on accreditation for children and
4 family services;

5 (2) "Certificate", a tax credit certificate issued under the provisions of this section;

6 (3) "Children", persons within the state who are under the age of eighteen, in the
7 custody of the division of children's services, or in the custody of an agency, who are in
8 need of medical, dental, educational, mental or other related health services and treatment,
9 including treatment for physical handicap, intellectual impairment, developmental
10 disability, mental or emotional disturbance, social maladjustment, or who belong to a
11 racial or ethnic minority, who are five years of age or older, or who are members of a
12 sibling group, and for whom an adoptive home is not readily available;

13 (4) "Department", the Missouri department of social services;

14 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder
15 in an S corporation doing business in the state of Missouri and subject to the state income
16 tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual
17 corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance
18 company paying an annual tax on its gross premium receipts in this state, or other
19 financial institution paying taxes to the state of Missouri or any political subdivision of this
20 state under the provisions of chapter 148, RSMo, or an individual subject to the state
21 income tax imposed by the provisions of chapter 143, RSMo.

22 2. A taxpayer or other person who makes a monetary donation to an agency may
23 receive credit against taxes owed under chapter 143, RSMo, equal to fifty percent of the
24 amount of the donation, subject to the conditions and limitations of subsection 4 of this
25 section.

26 3. The department shall authorize the issuance of tax credits as provided by this
27 subsection. An agency may submit an application to the department for a tax credit on
28 behalf of a person or taxpayer making a monetary donation to the agency. Child placing
29 agencies may apply for the tax credits in an aggregate amount that does not exceed forty
30 percent of the agency's cost in the preceding twelve months for placement of children born
31 in Missouri and placement of children in the custody of the department. A certificate shall
32 be issued to the person or taxpayer by the department after the department has verified

33 **that the agency has submitted the following items accurately and completely:**

34 **(1) A valid application in the form and format required by the department;**

35 **(2) A statement attesting to the donation received, which shall include the name and**
36 **taxpayer identification number of the person or taxpayer making the donation, the amount**
37 **of the donation, and the date the donation was received by the agency; and**

38 **(3) Payment from the agency to the department equal to the value of the tax credit**
39 **for which application is made.**

40 **4. For tax years beginning on or after January 1, 2006, the tax credits granted**
41 **pursuant to this section may be used by the holder of the certificate to satisfy taxes owed**
42 **under section 143, RSMo, excluding sections 143.191 to 143.265, RSMo, in the tax year the**
43 **credit is certified or that was owed during the previous three years. Any unused portion**
44 **of the tax credit authorized under this section may be carried forward for up to four years.**
45 **Certificates issued in accordance with this section may be transferred, sold, or assigned by**
46 **notarized endorsement, which names the transferee.**

47 **5. Funds received by the department pursuant to subdivision (3) of subsection 3 of**
48 **this section shall be used by the department for payment of subsidies on behalf of children**
49 **placed for adoption or foster care in the manner provided by sections 453.073 and 453.074,**
50 **RSMo.**

51 **6. The department shall promulgate such rules and regulations as are necessary to**
52 **implement the provisions of this section. Any rule or portion of a rule, as that term is**
53 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
54 **section shall become effective only if it complies with and is subject to all of the provisions**
55 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
56 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
57 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
58 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
59 **authority and any rule proposed or adopted after August 28, 2005, shall be invalid and**
60 **void.**