

FIRST REGULAR SESSION

HOUSE BILL NO. 402

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANZ.

1218L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 148.064, RSMo, and to enact in lieu thereof one new section relating to banking institution tax credits.

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

Section A. Section 148.064, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 148.064, to read as follows:

148.064. 1. Notwithstanding any law to the contrary, this section shall determine the ordering and limit reductions for certain taxes and tax credits which may be used as credits against various taxes paid or payable by banking institutions. Except as adjusted in subsections 2, 3 and 6 of this section, such credits shall be applied in the following order until used against:

(1) The tax on banks determined under subdivision (2) of subsection 2 of section 148.030;

(2) The tax on banks determined under subdivision (1) of subsection 2 of section 148.030;

(3) The state income tax in section 143.071, RSMo.

2. The tax credits permitted against taxes payable pursuant to subdivision (2) of subsection 2 of section 148.030 shall be utilized first and include taxes referenced in subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such taxes. Where a banking institution subject to this section joins in the filing of a consolidated state income tax return under chapter 143, RSMo, the credit allowed under this section for state income taxes payable under chapter 143, RSMo, shall be determined based upon the consolidated state income tax liability of the group and allocated to a banking institution,

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.

18 without reduction for any tax credits identified in subsection 5 of this section which are used to
19 reduce such consolidated taxes as provided in chapter 143, RSMo.

20 3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may
21 be reduced by the tax credits in subsection 5 of this section without regard to any adjustments
22 in subsection 2 of this section.

23 4. To the extent that certain tax credits which the taxpayer is entitled to claim are
24 transferable, such transferability may include transfers among such taxpayers who are members
25 of a single consolidated income tax return, and this subsection shall not impact other tax credit
26 transferability.

27 5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall
28 include tax credits available for economic development, low-income housing and neighborhood
29 assistance which the taxpayer is entitled to claim for the year, including by way of example and
30 not of limitation, tax credits pursuant to the following sections: section 32.115, RSMo, section
31 100.286, RSMo, and sections 135.110, 135.225, 135.352 and 135.403, RSMo.

32 6. For tax returns filed on or after January 1, 2001, including returns based on income
33 in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal
34 to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the
35 outstanding shares and surplus exceed one million dollars, determined in the same manner as in
36 section 147.010, RSMo. This tax credit shall be taken as a dollar-for-dollar credit against the
37 bank tax provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was
38 already reduced to zero by other credits, then against the corporate income tax provided for in
39 chapter 143, RSMo.

40 7. In the event the corporation franchise tax in chapter 147, RSMo, is repealed by the
41 general assembly, there shall also be a reduction in the taxation of banks as follows: in lieu of
42 the loss of the corporation franchise tax credit reduction in subdivision (1) of subsection 2 of
43 section 148.030, the bank shall receive a tax credit equal to one and one-half percent of net
44 income as determined in this chapter. This subsection shall take effect at the same time the
45 corporation franchise tax in chapter 147, RSMo, is repealed.

46 8. An S corporation bank or bank holding company that otherwise qualifies to distribute
47 tax credits to its shareholders shall pass through any tax credits referred to in subsection 5 of this
48 section to its shareholders as otherwise provided for in subsection 9 of section 143.471, RSMo,
49 with no reductions or limitations resulting from the transfer through such S corporation, and on
50 the same terms originally made available to the original taxpayer, subject to any original dollar
51 or percentage limitations on such credits, and when such S corporation is the original taxpayer,
52 treating such S corporation as having not elected Subchapter S status.

53 9. Notwithstanding any law to the contrary, in the event the corporation franchise tax in
54 chapter 147, RSMo, is repealed by the general assembly, after such repeal all Missouri taxes of
55 any nature and type imposed directly or used as a tax credit against the bank's taxes shall be
56 passed through to the S corporation bank or bank holding company shareholder in the form
57 otherwise permitted by law, except for the following:

58 (1) Credits for taxes on real estate and tangible personal property owned by the bank and
59 held for lease or rental to others;

60 (2) Contributions paid pursuant to the unemployment compensation tax law of Missouri;
61 or

62 (3) State and local sales and use taxes collected by the bank on its sales of tangible
63 personal property and the services enumerated in chapter 144, RSMo.

64 **10. Notwithstanding any other provision of law to the contrary, when a foreign**
65 **state imposes a tax on a Missouri bank without a physical presence in the taxing state, a**
66 **similar tax shall be assessed in this state on any state or national bank that:**

67 (1) Is chartered in the taxing state;

68 (2) Has no physical presence in this state; and

69 (3) Conducts business in this state.

70 **11. When a foreign state imposes a tax on a Missouri bank without a physical**
71 **presence in the taxing state, a credit shall be granted to that bank against the bank tax**
72 **imposed in this section and section 148.030 in an amount equal to the tax imposed by the**
73 **foreign state. The credit shall be granted first against the Missouri franchise tax, and then**
74 **dollar for dollar against the corporate income tax.**

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