

FIRST REGULAR SESSION

# HOUSE BILL NO. 705

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CURLS (Sponsor) AND McCANN BEATTY (Co-sponsor).

1772L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 135.352 and 135.363, RSMo, and to enact in lieu thereof two new sections relating to low-income housing tax credits.

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

Section A. Sections 135.352 and 135.363, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.352 and 135.363, to read as follows:

135.352. 1. A taxpayer owning an interest in a qualified Missouri project shall[, subject to the limitations provided under the provisions of subsection 3 of this section,] be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

2. For qualified Missouri projects placed in service after January 1, 1997, **but before December 31, 2011**, the Missouri low-income housing tax credit available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the federal low-income housing tax credit for a qualified Missouri project, for a federal tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period.

3. [No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax-exempt bond issuance.

4.] **For all years beginning on or after January 1, 2012, the Missouri low-income housing tax credit shall be distributed through a tax credit over a period of five years. No more than sixteen million dollars in tax credits provided under this section shall be authorized in any fiscal year beginning on or after January 1, 2012. As a provision for this tax credit the owner of the qualified project shall set aside a reserve of five hundred dollars**

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 per unit, in addition to the reserves as determined by the Missouri housing development  
19 commission. These reserves shall only be used for capital improvements and property tax  
20 payments above those budgeted on the qualified project beyond their ten years. The  
21 additional reserves shall not add costs to the project but shall come from the investment  
22 or development income of the project. The reserve shall be invested conservatively by the  
23 development entity of the project. If these qualified projects are sold, any moneys  
24 remaining in the reserves for these projects shall be deposited for use in the housing trust  
25 fund. Exception to the transfer of moneys shall include a not-for-profit organization that  
26 becomes the owner of the property and elects to continue the property as a low-income  
27 housing property serving individuals at or below sixty percent of median income. The not-  
28 for-profit may use these funds for capital improvements of the project. In the case of  
29 distribution to a not-for-profit, the funds shall go to the housing trust fund and shall be  
30 distributed to the project based on actual project costs.

31 **4. The Missouri housing development commission shall by the last day of January**  
32 **of each year, prepare a report on the Missouri low-income housing tax credit that includes,**  
33 **but is not limited to, the amount of credits that have been awarded during the year with**  
34 **their geographic designation by county, the redeemed amount, the issued amount, and the**  
35 **outstanding amount of the Missouri low-income housing tax credit. The report shall be**  
36 **delivered by mail, email, or hand to the governor, the general assembly, the leadership of**  
37 **the house and the senate, and the appropriation chairs of each house. The report shall also**  
38 **be posted on the Missouri Housing Development Commission's website.**

39 **5. The Missouri low-income housing tax credit shall be taken against the taxes and in**  
40 **the order specified pursuant to section 32.115. The credit authorized by this section shall not be**  
41 **refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be**  
42 **carried back to [any of] the taxpayer's [three] prior taxable [years] year or carried forward to any**  
43 **of the taxpayer's [five] two subsequent taxable years.**

44 **[5.] 6. The Missouri low-income housing tax credit may be transferred to another**  
45 **entity no more than once during the five- year period of eligibility of the qualified project**  
46 **under the approval and direction of the Missouri Housing Development Commission. The**  
47 **approval shall be certified through the issuance of an eligibility statement that includes the**  
48 **name, address, and organization of the person to whom the credit is being transferred.**

49 **7. All or any portion of Missouri tax credits issued in accordance with the provisions of**  
50 **sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant to the**  
51 **provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects**  
52 **which began on or after January 1, 1994, an owner of a qualified Missouri project shall certify**  
53 **to the director the amount of credit allocated to each taxpayer. The owner of the project shall**

54 provide to the director appropriate information so that the low-income housing tax credit can be  
55 properly allocated.

56 [6.] **8.** In the event that recapture of Missouri low-income housing tax credits is required  
57 pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided  
58 in this section shall include the proportion of the state credit required to be recaptured, the  
59 identity of each taxpayer subject to the recapture and the amount of credit previously allocated  
60 to such taxpayer.

61 [7.] **9.** The director of the department [may] **and the Missouri Housing Development**  
62 **Commission shall** promulgate rules and regulations necessary to administer the provisions of  
63 this section. No rule or portion of a rule promulgated pursuant to the authority of this section  
64 shall become effective unless it has been promulgated pursuant to the provisions of section  
65 536.024.

135.363. 1. All or any portion of tax credits issued in accordance with the provisions  
2 of sections 135.350 to 135.363 may be transferred, sold or assigned to parties who are eligible  
3 under the provisions of subsection 1 of section 135.352.

4 2. [Beginning January 1, 1995, for qualified projects which began on or after January 1,  
5 1994,] **The Missouri low-income housing tax credit may be transferred to another entity**  
6 **no more than once during the five-year period of eligibility of the qualified project under**  
7 **the approval and direction of the Missouri Housing Development Commission. The**  
8 **approval shall be certified through the issuance of an eligibility statement that includes the**  
9 **name, address, and organization of the person to whom the credit is being transferred.** An  
10 owner or transferee desiring to make a transfer, sale or assignment as described in subsection 1  
11 of this section shall submit to the [director of the department of revenue] **Missouri Housing**  
12 **Development Commission** a statement which describes the amount of credit for which such  
13 transfer, sale or assignment of credit is eligible, **and the taxpayer's name, organization,**  
14 **address and other pertinent information. Once approved,** the [owner] **Missouri Housing**  
15 **Development Commission** shall provide to the director of revenue appropriate information so  
16 that the low-income housing tax credit can be properly allocated.

17 [3. In the event that recapture of Missouri low-income housing tax credits is required  
18 pursuant to subsection 2 of section 135.355, any statement submitted to the director of the  
19 department of revenue as provided in this section shall include the proportion of the state credit  
20 required to be recaptured, the identity of each transferee subject to recapture and the amount of  
21 credit previously transferred to such transferee.

22 4. The director of the department of revenue may prescribe rules and regulations  
23 necessary for the administration of the provisions of this section.]