

FIRST REGULAR SESSION

# HOUSE BILL NO. 423

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ZERR (Sponsor), HUBBARD, BERRY, LAUER, MCMANUS,  
MCCANN BEATTY, RIZZO, MOLENDORP, MAYFIELD, MIMS, GARDNER, ELLINGTON,  
HOUGH AND JONES (50) (Co-sponsors).

1115L.03I

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 distressed areas land assemblage tax credit act.

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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Section A. Section 99.1205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.1205, to read as follows: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 **or any portion thereof, together with engineering costs, surveying costs, title insurance, and architectural and design costs incurred in connection with acquisition, financing, parcel consolidation or site and redevelopment area planning regarding one or more eligible parcels**, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for a period of [five] **twelve** 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:

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.

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

17 (b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal  
18 authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop  
19 an urban renewal area or a redevelopment area that includes all of an eligible project area or  
20 whose redevelopment plan or redevelopment area, which encompasses all of an eligible project  
21 area, has been approved or adopted under an economic incentive law. In addition to being  
22 designated the redeveloper, the applicant shall have been designated to receive economic  
23 incentives only after the municipal authority has considered the amount of the tax credits in  
24 adopting such economic incentives as provided in subsection 8 of this section **unless such**  
25 **economic incentives were approved for an eligible project area qualified as such under**  
26 **subparagraph c. of paragraph (b) of subdivision (8) of this subsection.** The redevelopment  
27 agreement shall provide that[:

28 a.] the funds generated through the use or sale of the tax credits issued under this section  
29 shall be used to redevelop the eligible project area[;

30 b.] . **Additionally, except for projects in eligible project areas qualified as such**  
31 **under subparagraph c. of paragraph (b) of subdivision (8) of this subsection, the**  
32 **redevelopment agreement shall provide that:**

33 a. No more than seventy-five percent of the urban renewal area identified in the urban  
34 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped  
35 by the applicant; and

36 [c.] b. The remainder of the urban renewal area or the redevelopment area shall be  
37 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its  
38 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

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

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

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

47 (6) "Economic incentive laws", any provision of Missouri law pursuant to which  
48 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,  
49 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment  
50 projects approved or adopted which include the use of economic incentives to redevelop the land.

51 Economic incentive laws include, but are not limited to, the land clearance for redevelopment  
52 authority law under sections 99.300 to 99.660, the real property tax increment allocation  
53 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic  
54 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation  
55 program under sections 99.1080 to 99.1092;

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

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

58 (b) Which is to be redeveloped;

59 (c) On which the applicant has not commenced construction prior to November 28,  
60 2007;

61 (d) Which has been acquired **either directly by the applicant, or on behalf of the**  
62 **applicant through one or more affiliated companies controlled by the applicant or under**  
63 **common ownership with the applicant;**

64 (e) **Which has been acquired** without the commencement of any condemnation  
65 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel  
66 acquired **before August 28, 2007**, by the applicant from a municipal authority shall not  
67 constitute an eligible parcel; and

68 [(e)] (f) On which all outstanding taxes, fines, and bills levied by municipal governments  
69 that were levied by the municipality during the time period that the applicant held title to the  
70 eligible parcel have been paid in full;

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

72 (a) The eligible project area shall consist of at least seventy-five acres and may include  
73 parcels within its boundaries that do not constitute an eligible parcel;

74 (b) At least eighty percent of the eligible project area shall be located within:

75 **a.** A Missouri qualified census tract area, as designated by the United States Department  
76 of Housing and Urban Development under 26 U.S.C. Section 42[, or within] ; **or**

77 **b.** A distressed community as that term is defined in section 135.530; **or**

78 **c.** **A redevelopment area as that term is defined under the real property tax**  
79 **increment allocation redevelopment act under sections 99.800 to 99.865 that:**

80 (i) **Contains at least three hundred acres of real property;**

81 (ii) **Includes or previously included in excess of one million square feet of**  
82 **commercial building space;**

83 (iii) **Contains eighty or more parcels; and**

84 (iv) **Is located within a low-income community as defined by 26 U.S.C. Section 45D**  
85 **as of January 1, 2011;**

86 (c) The eligible parcels acquired by the applicant within the eligible project area shall  
87 total at least fifty acres, which may consist of contiguous and noncontiguous parcels, **but shall**  
88 **not include any parcel acquired by the applicant from a municipal authority. Any**  
89 **applicant applying for credits for costs incurred within an eligible project area qualified**  
90 **as such under subparagraph c. of paragraph (b) of this subdivision shall own, either**  
91 **directly by the applicant, or on behalf of the applicant through one or more affiliated**  
92 **companies controlled by the applicant or under common ownership with the applicant, at**  
93 **least one hundred fifty contiguous acres of real property, which may be separated by the**  
94 **width of public right-of-way, within the urban renewal area or redevelopment area**  
95 **containing such eligible project area;**

96 (d) **Other than in eligible project areas qualified as such under subparagraph c. of**  
97 **paragraph (b) of this subdivision,** the average number of parcels per acre in an eligible project  
98 area shall be four or more;

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

104 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include  
105 attorney's fees, **any of which relate to or arise out of loans relating to acquisition costs,**  
106 **including without limitation, interest, loan fees and closing costs associated with the**  
107 **refinancing of loans relating to acquisition costs;**

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

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

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

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

116 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan  
117 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible  
118 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or  
119 eliminated by redevelopment or rehabilitation; and

120 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement  
121 into which the applicant entered with a municipal authority and which is the agreement for the

122 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant  
123 was appointed or selected as the redeveloper or by which the person or entity was qualified as  
124 an applicant under this section; and such appointment or selection shall have been approved by  
125 an ordinance of the governing body of the municipality, or municipalities, or in the case of any  
126 city not within a county, the board of aldermen, in which the eligible project area is located. The  
127 redevelopment agreement shall include a time line for redevelopment of the eligible project area.  
128 The redevelopment agreement shall state that the named developer shall be subject to the  
129 provisions of chapter 290.

130         **3. Subject to the limitations provided in subsection 7 of this section,** any applicant  
131 shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148,  
132 except for sections 143.191 to 143.265, in an amount equal to fifty percent of the acquisition  
133 costs; **except that, the tax credit for reasonable demolition costs shall be in an amount equal**  
134 **to one hundred percent of such costs,** and one hundred percent of the interest costs incurred  
135 for a period of [five] **twelve** years after the acquisition of an eligible parcel. [No tax credits shall  
136 be issued under this section until after January 1, 2008.]

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

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

153         6. To claim tax credits authorized under this section, an applicant shall submit to the  
154 department an application for a certificate. An applicant shall identify the boundaries of the  
155 eligible project area in the application. The department shall verify that the applicant has  
156 submitted a valid application in the form and format required by the department. The department  
157 shall verify that the municipal authority held the requisite hearings and gave the requisite notices

158 for such hearings in accordance with the applicable economic incentive act, and municipal  
159 ordinances. On [an annual] **a quarterly** basis, an applicant may file for the tax credit for the  
160 acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this  
161 section. If an applicant applying for the tax credit meets the criteria required under this section,  
162 the department shall issue a certificate in the appropriate amount. If an applicant receives a tax  
163 credit for maintenance costs as a part of the applicant's acquisition costs, the department shall  
164 post on its internet website the amount and type of maintenance costs and a description of the  
165 redevelopment project for which the applicant received a tax credit within thirty days after the  
166 department issues the certificate to the applicant.

167 7. The total aggregate amount of tax credits authorized under this section **after**  
168 **August 28, 2013**, shall not exceed ninety-five million dollars. At no time shall the annual  
169 amount of the tax credits issued under this section exceed [twenty] **thirty** million dollars. If the  
170 tax credits that are to be issued under this section exceed, in any year, the [twenty] **thirty** million  
171 dollar limitation, the department shall either:

172 (1) Issue tax credits to the applicant in the amount of [twenty] **thirty** million dollars, if  
173 there is only one applicant entitled to receive tax credits in that year; or

174 (2) **(a)** Issue the tax credits [on a pro rata basis] to all applicants entitled to receive tax  
175 credits in that year **as provided in this subdivision. The department shall determine on an**  
176 **ongoing basis during the course of each calendar year the amount of tax credits that have**  
177 **been issued to each applicant for each eligible project area during such year, and the**  
178 **amount of tax credits remaining available for issuance with respect to such calendar year,**  
179 **if any.**

180 **(b) Applicants applying for tax credits with respect to projects located in eligible**  
181 **project areas qualified as such under subparagraph c. of paragraph (b) of subdivision (8)**  
182 **of subsection 2 of this section shall not, in the aggregate, be issued tax credits in excess of**  
183 **fifty percent of the annual thirty million dollar limitation with respect to such calendar**  
184 **year. If more than one applicant qualifies for issuance of tax credits under the preceding**  
185 **sentence in a given calendar year, such tax credits shall be issued on a pro rata basis.**  
186 **Applicants applying for tax credits with respect to projects located in any other eligible**  
187 **project areas shall not, in the aggregate, be issued tax credits in excess of fifty percent of**  
188 **the annual thirty million dollar limitation with respect to such calendar year. If more than**  
189 **one applicant qualifies for issuance of tax credits under the preceding sentence in a given**  
190 **calendar year, such tax credits shall be issued on a pro rata basis.**

191 **(c) In the event that the department determines, as of December thirty-first of a**  
192 **given calendar year, that the full amount of tax credits available for such calendar year**  
193 **under paragraph (b) of this subdivision with respect to projects located in eligible project**

194 **areas qualified as such under subparagraph c. of paragraph (b) of subdivision (8) of**  
195 **subsection 2 of this section, was not issued, then the department shall make available for**  
196 **allocation to qualifying applicants with respect to projects located in any other eligible**  
197 **project areas the unissued amount of such tax credits. In the event that the department**  
198 **determines, as of December thirty-first of a given calendar year, that the full amount of tax**  
199 **credits available for such calendar year under paragraph (b) of this subdivision with**  
200 **respect to projects not located in eligible project areas qualified as such under**  
201 **subparagraph c. of paragraph (b) of subdivision (8) of subsection 2 of this section, was not**  
202 **issued, then the department shall make available for allocation to qualifying applicants**  
203 **with respect to projects located in eligible project areas which qualified as such under**  
204 **subparagraph c. of paragraph (b) of subdivision (8) of subsection 2 of this section, the**  
205 **unissued amount of such tax credits.**

206 (d) Any amount of tax credits, which an applicant is, or applicants are, entitled to receive  
207 on an annual basis and are not issued due to the [twenty] **thirty** million dollar limitation, shall  
208 be carried forward for the benefit of the applicant or applicants to subsequent years.

209

210 No tax credits provided under this section shall be authorized after August 28, [2013] **2019**. Any  
211 tax credits which have been authorized on or before August 28, [2013] **2019**, but not issued, may  
212 be issued, subject to the limitations provided under this subsection, until all such authorized tax  
213 credits have been issued.

214 8. Upon issuance of any tax credits pursuant to this section, the department shall report  
215 to the municipal authority the applicant's name and address, the parcel numbers of the eligible  
216 parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for  
217 which tax credits were issued, and the total value of the tax credits issued. The municipal  
218 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but  
219 shall include [the] **issued** tax credits in any **subsequent** sources and uses and cost benefit  
220 analysis reviewed or created for the purpose of awarding other economic incentives. The amount  
221 of the tax credits shall not be considered an applicant's cost in the evaluation of the amount of  
222 any award of any other economic incentives, but shall be considered in measuring the  
223 reasonableness of the rate of return to the applicant with respect to such award of other economic  
224 incentives. The municipal authority shall provide the report to any relevant commission, board,  
225 or entity responsible for the evaluation and recommendation or approval of other economic  
226 incentives to assist in the redevelopment of the eligible project area. Tax credits authorized  
227 under this section shall constitute redevelopment tax credits, as such term is defined under  
228 section 135.800, and shall be subject to all provisions applicable to redevelopment tax credits  
229 provided under sections 135.800 to 135.830.

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

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