

FIRST REGULAR SESSION

HOUSE BILL NO. 361

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER.

0604H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 135.325, 135.326, 135.327, 135.335, 135.800, and 191.975, RSMo, and to enact in lieu thereof six new sections relating to tax credits.

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

Section A. Sections 135.325, 135.326, 135.327, 135.335, 135.800, and 191.975, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 135.325, 135.326, 135.327, 135.335, 135.800, and 191.975, to read as follows:

135.325. Sections 135.325 to 135.339 shall be known and may be cited as the "[Special Needs] Adoption Tax Credit Act".

135.326. As used in sections 135.325 to 135.339, the following terms shall mean:

(1) "Business entity", 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, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, 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, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153;

(2) "Handicap", a mental, physical, or emotional impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

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 (3) "Nonrecurring adoption expenses", reasonable and necessary adoption fees, court
14 costs, attorney fees, and other expenses which are directly related to the legal adoption of a
15 ~~[special needs]~~ child and which are not incurred in violation of federal, state, or local law;

16 (4) "Special needs child", a child for whom it has been determined by the children's
17 division, or by a child-placing agency licensed by the state, or by a court of competent
18 jurisdiction to be a child:

19 (a) That cannot or should not be returned to the home of his or her parents; and

20 (b) Who has a specific factor or condition such as ethnic background, age, membership
21 in a minority or sibling group, medical condition, or handicap because of which it is reasonable
22 to conclude that such child cannot be easily placed with adoptive parents;

23 (5) "State tax liability", any liability incurred by a taxpayer under the provisions of
24 chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to
25 the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions.

135.327. 1. Any person residing in this state who legally adopts a special needs child
2 on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit
3 of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may
4 be applied to taxes due under chapter 143. Any business entity providing funds to an employee
5 to enable that employee to legally adopt a special needs child shall be eligible to receive a tax
6 credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted
7 that may be applied to taxes due under such business entity's state tax liability, except that only
8 one ten thousand dollar credit is available for each special needs child that is adopted.

9 2. Any person residing in this state who proceeds in good faith with the adoption of a
10 special needs child on or after January 1, 2000, **and before January 1, 2022**, shall be eligible
11 to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each
12 child that may be applied to taxes due under chapter 143; provided, however, that beginning on
13 March 29, 2013, the tax credits shall only be allocated for the adoption of special needs children
14 who are residents or wards of residents of this state at the time the adoption is initiated. Any
15 business entity providing funds to an employee to enable that employee to proceed in good faith
16 with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten
17 thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes
18 due under such business entity's state tax liability, except that only one ten thousand dollar credit
19 is available for each special needs child that is adopted.

20 3. **Any person residing in this state who proceeds in good faith with the adoption**
21 **of a child on or after January 1, 2022, regardless of whether such child is a special needs**
22 **child, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring**
23 **adoption expenses for each child, which may be applied to taxes due under chapter 143.**

24 **The tax credit shall be allowed regardless of whether the child adopted is a resident or**
25 **ward of a resident of this state at the time the adoption is initiated. Any business entity**
26 **providing funds to an employee to enable that employee to proceed in good faith with the**
27 **adoption of a child shall be eligible to receive a tax credit of up to ten thousand dollars for**
28 **nonrecurring adoption expenses for each child, which may be applied to taxes due under**
29 **such business entity's state tax liability; except that, only one credit, up to ten thousand**
30 **dollars, shall be available for each child who is adopted.**

31 4. Individuals and business entities may claim a tax credit for their total nonrecurring
32 adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the
33 credit shall be allowed when the child is placed in the home. A claim for the remaining fifty
34 percent shall be allowed when the adoption is final. The total of these tax credits shall not
35 exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax
36 credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption
37 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars. The
38 cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for
39 nonrecurring adoption expenses shall not be more than two million dollars but may be increased
40 by appropriation in any fiscal year beginning on or after July 1, 2004. For all fiscal years
41 beginning on or after July 1, 2006, applications to claim the adoption tax credit ~~[for special needs~~
42 ~~children who are residents or wards of residents of this state at the time the adoption is initiated]~~
43 shall be filed between July first and April fifteenth of each fiscal year.

44 [4.] 5. Notwithstanding any provision of law to the contrary, any individual or business
45 entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits
46 claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of
47 the amount sold.

135.335. In the year of adoption and in any year thereafter in which the credit is carried
2 forward pursuant to section 135.333, the credit shall be reduced by an amount equal to the state's
3 cost of providing care, treatment, maintenance and services when:

4 (1) The ~~[special needs]~~ child is placed, with no intent to return to the adoptive home, in
5 foster care or residential treatment licensed or operated by the children's division, the division
6 of youth services or the department of mental health; or

7 (2) A juvenile court temporarily or finally relieves the adoptive parents of custody of the
8 ~~[special needs]~~ child.

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known and may be
2 cited as the "Tax Credit Accountability Act of 2004".

3 2. As used in sections 135.800 to 135.830, the following terms mean:

- 4 (1) "Administering agency", the state agency or department charged with administering
5 a particular tax credit program, as set forth by the program's enacting statute; where no
6 department or agency is set forth, the department of revenue;
- 7 (2) "Agricultural tax credits", the agricultural product utilization contributor tax credit
8 created pursuant to section 348.430, the new generation cooperative incentive tax credit created
9 pursuant to section 348.432, the family farm breeding livestock loan tax credit created under
10 section 348.505, the qualified beef tax credit created under section 135.679, and the wine and
11 grape production tax credit created pursuant to section 135.700;
- 12 (3) "All tax credit programs", or "any tax credit program", the tax credit programs
13 included in the definitions of agricultural tax credits, business recruitment tax credits, community
14 development tax credits, domestic and social tax credits, entrepreneurial tax credits,
15 environmental tax credits, financial and insurance tax credits, housing tax credits, redevelopment
16 tax credits, and training and educational tax credits;
- 17 (4) "Business recruitment tax credits", the business facility tax credit created pursuant
18 to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created
19 pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development
20 programs created pursuant to sections 100.700 to 100.850, the development tax credits created
21 pursuant to sections 32.100 to 32.125, the rebuilding communities tax credit created pursuant
22 to section 135.535, the film production tax credit created pursuant to section 135.750, the
23 enhanced enterprise zone created pursuant to sections 135.950 to 135.970, and the Missouri
24 quality jobs program created pursuant to sections 620.1875 to 620.1900;
- 25 (5) "Community development tax credits", the neighborhood assistance tax credit created
26 pursuant to sections 32.100 to 32.125, the family development account tax credit created
27 pursuant to sections 208.750 to 208.775, the dry fire hydrant tax credit created pursuant to
28 section 320.093, and the transportation development tax credit created pursuant to section
29 135.545;
- 30 (6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant
31 to section 135.460 and sections 620.1100 to 620.1103, the shelter for victims of domestic
32 violence created pursuant to section 135.550, the senior citizen or disabled person property tax
33 credit created pursuant to sections 135.010 to 135.035, the ~~[special-needs]~~ adoption tax credit
34 created pursuant to sections 135.325 to 135.339, the champion for children tax credit created
35 pursuant to section 135.341, the maternity home tax credit created pursuant to section 135.600,
36 the surviving spouse tax credit created pursuant to section 135.090, the residential treatment
37 agency tax credit created pursuant to section 135.1150, the pregnancy resource center tax credit
38 created pursuant to section 135.630, the food pantry tax credit created pursuant to section
39 135.647, the health care access fund tax credit created pursuant to section 135.575, the

40 residential dwelling access tax credit created pursuant to section 135.562, the developmental
41 disability care provider tax credit created under section 135.1180, the shared care tax credit
42 created pursuant to section 192.2015, and the diaper bank tax credit created pursuant to section
43 135.621;

44 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections
45 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500
46 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, the new
47 enterprise creation tax credit created pursuant to sections 620.635 to 620.653, the research tax
48 credit created pursuant to section 620.1039, the small business incubator tax credit created
49 pursuant to section 620.495, the guarantee fee tax credit created pursuant to section 135.766, and
50 the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125;

51 (8) "Environmental tax credits", the charcoal producer tax credit created pursuant to
52 section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, and
53 the alternative fuel stations tax credit created pursuant to section 135.710;

54 (9) "Financial and insurance tax credits", the bank franchise tax credit created pursuant
55 to section 148.030, the bank tax credit for S corporations created pursuant to section 143.471,
56 the exam fee tax credit created pursuant to section 148.400, the health insurance pool tax credit
57 created pursuant to section 376.975, the life and health insurance guaranty tax credit created
58 pursuant to section 376.745, the property and casualty guaranty tax credit created pursuant to
59 section 375.774, and the self-employed health insurance tax credit created pursuant to section
60 143.119;

61 (10) "Housing tax credits", the neighborhood preservation tax credit created pursuant to
62 sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections
63 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to
64 32.125;

65 (11) "Recipient", the individual or entity who is the original applicant for and who
66 receives proceeds from a tax credit program directly from the administering agency, the person
67 or entity responsible for the reporting requirements established in section 135.805;

68 (12) "Redevelopment tax credits", the historic preservation tax credit created pursuant
69 to sections 253.545 to 253.559, the brownfield redevelopment program tax credit created
70 pursuant to sections 447.700 to 447.718, the community development corporations tax credit
71 created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to
72 subsection 6 of section 100.286, the bond guarantee tax credit created pursuant to section
73 100.297, the disabled access tax credit created pursuant to section 135.490, the new markets tax
74 credit created pursuant to section 135.680, and the distressed areas land assemblage tax credit
75 created pursuant to section 99.1205;

76 (13) "Training and educational tax credits", the Missouri works new jobs tax credit and
77 Missouri works retained jobs credit created pursuant to sections 620.800 to 620.809.

191.975. 1. This section shall be known and may be cited as the "Adoption Awareness
2 Law".

3 2. To raise public awareness and to educate the public, the department of social services,
4 with the assistance of the department of health and senior services, shall be responsible for:

5 (1) Collecting and distributing resource materials to educate the public about foster care
6 and adoption;

7 (2) Developing and distributing educational materials, including but not limited to
8 videos, brochures and other media as part of a comprehensive public relations campaign about
9 the positive option of adoption and foster care. The materials shall include, but not be limited
10 to, information about:

11 (a) The benefits of adoption and foster care;

12 (b) Adoption and foster care procedures;

13 (c) Means of financing the cost of adoption and foster care^[,] including, but not limited
14 to, adoption subsidies, foster care payments, and ~~[special needs]~~ adoption tax credits;

15 (d) Options for birth parents in choosing adoptive parents;

16 (e) Protection for and rights of birth parents and adoptive parents prior to and following
17 the adoption;

18 (f) Location of adoption and foster care agencies;

19 (g) Information regarding various state health and social service programs for pregnant
20 women and children, including but not limited to medical assistance programs and temporary
21 assistance for needy families (TANF); and

22 (h) Referrals to appropriate counseling services, including but not be limited to
23 counseling services for parents who are considering retaining custody of their children, placing
24 their children for adoption, or becoming foster or adoptive parents; but excluding any referrals
25 for abortion or to abortion facilities;

26 (3) Making such educational materials available through state and local public health
27 clinics, public hospitals, family planning clinics, abortion facilities as defined in section 188.015,
28 maternity homes as defined in section 135.600, child-placing agencies licensed pursuant to
29 sections 210.481 to 210.536, attorneys whose practice involves private adoptions, in vitro
30 fertilization clinics and private physicians for distribution to their patients who request such
31 educational materials. Such materials shall also be available to the public through the
32 department of social services' internet website;

33 (4) Establishing a toll-free telephone number for information on adoption and foster care,
34 and to answer questions and assist persons inquiring about becoming adoptive or foster parents.

35 3. In addition, the department may establish and implement an ongoing advertising
36 campaign for the recruitment of adoptive and foster care families, with a special emphasis on the
37 recruitment of qualified adoptive and foster care families for special needs children. Such
38 advertising campaign may utilize, but shall not be limited to, the following media: television,
39 radio, outdoor advertising, newspaper, magazines and other print media, websites, and the
40 internet. The department may contract with professional advertising agencies or other
41 professional entities to conduct such advertising campaign on behalf of the department.

42 4. The provisions of this section shall be subject to appropriations.

43 5. The department of social services shall promulgate rules for the implementation of
44 this section in accordance with chapter 536.

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