

FIRST REGULAR SESSION

SENATE BILL NO. 463

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 19, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2212S.011

AN ACT

To repeal sections 135.1150 and 135.1180, RSMo, and to enact in lieu thereof two new sections relating to benevolent tax credits.

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

Section A. Sections 135.1150 and 135.1180, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 135.1150 and
3 135.1180, to read as follows:

135.1150. 1. This section shall be known and may be cited as the
2 "Residential Treatment Agency Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Certificate", a tax credit certificate issued under this section;

5 (2) "Department", the Missouri department of social services;

6 (3) "Eligible donation", donations received from a taxpayer by an agency
7 that are used solely to provide direct care services to children who are residents
8 of this state. Eligible donations may include cash, publicly traded stocks and
9 bonds, and real estate that will be valued and documented according to rules
10 promulgated by the department of social services. For purposes of this section,
11 "direct care services" include but are not limited to increasing the quality of care
12 and service for children through improved employee compensation and training;

13 (4) "Qualified residential treatment agency" or "agency", a residential care
14 facility that is licensed under section 210.484, accredited by the Council on
15 Accreditation (COA), the Joint Commission on Accreditation of Healthcare
16 Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation
17 Facilities (CARF), and is under contract with the Missouri department of social
18 services to provide treatment services for children who are residents or wards of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 residents of this state, and that receives eligible donations. Any agency that
20 operates more than one facility or at more than one location shall be eligible for
21 the tax credit under this section only for any eligible donation made to facilities
22 or locations of the agency which are licensed and accredited;

23 (5) "Taxpayer", any of the following individuals or entities who make an
24 eligible donation to an agency:

25 (a) A person, firm, partner in a firm, corporation, or a shareholder in an
26 S corporation doing business in the state of Missouri and subject to the state
27 income tax imposed in chapter 143;

28 (b) A corporation subject to the annual corporation franchise tax imposed
29 in chapter 147;

30 (c) An insurance company paying an annual tax on its gross premium
31 receipts in this state;

32 (d) Any other financial institution paying taxes to the state of Missouri
33 or any political subdivision of this state under chapter 148;

34 (e) An individual subject to the state income tax imposed in chapter 143;

35 (f) Any charitable organization which is exempt from federal income tax
36 and whose Missouri unrelated business taxable income, if any, would be subject
37 to the state income tax imposed under chapter 143.

38 3. For all taxable years beginning on or after January 1, 2007, any
39 taxpayer shall be allowed a credit against the taxes otherwise due under chapter
40 [147, 148, or] 143, **147, or 148**, excluding withholding tax imposed by sections
41 143.191 to 143.265, in an amount equal to fifty percent of the amount of an
42 eligible donation, subject to the restrictions in this section. The amount of the
43 tax credit claimed shall not exceed the amount of the taxpayer's state income tax
44 liability in the tax year for which the credit is claimed. Any amount of credit that
45 the taxpayer is prohibited by this section from claiming in a tax year shall not be
46 refundable, but may be carried forward to any of the taxpayer's four subsequent
47 taxable years.

48 4. To claim the credit authorized in this section, an agency may submit
49 to the department an application for the tax credit authorized by this section on
50 behalf of taxpayers. The department shall verify that the agency has submitted
51 the following items accurately and completely:

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

53 (2) A statement attesting to the eligible donation received, which shall
54 include the name and taxpayer identification number of the individual making

55 the eligible donation, the amount of the eligible donation, and the date the
56 eligible donation was received by the agency; and

57 (3) Payment from the agency equal to the value of the tax credit for which
58 application is made. If the agency applying for the tax credit meets all criteria
59 required by this subsection, the department shall issue a certificate in the
60 appropriate amount.

61 5. An agency may apply for tax credits in an aggregate amount that does
62 not exceed the payments made by the department to the agency in the preceding
63 twelve months.

64 6. Tax credits issued under this section may be assigned, transferred,
65 sold, or otherwise conveyed, and the new owner of the tax credit shall have the
66 same rights in the credit as the taxpayer. Whenever a certificate is assigned,
67 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed
68 with the department specifying the name and address of the new owner of the tax
69 credit or the value of the credit.

70 7. The department shall promulgate rules to implement the provisions of
71 this section. Any rule or portion of a rule, as that term is defined in section
72 536.010, that is created under the authority delegated in this section shall
73 become effective only if it complies with and is subject to all of the provisions of
74 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
75 nonseverable and if any of the powers vested with the general assembly pursuant
76 to chapter 536 to review, to delay the effective date, or to disapprove and annul
77 a rule are subsequently held unconstitutional, then the grant of rulemaking
78 authority and any rule proposed or adopted after August 28, 2006, shall be
79 invalid and void.

80 8. Under section 23.253 of the Missouri sunset act[:

81 (1) The program authorized under this section shall expire on December
82 31, 2015; and

83 (2) This section shall terminate on September 1, 2016], **the provisions**
84 **of the program authorized under this section are hereby reauthorized**
85 **and shall automatically sunset on August 28, 2027.**

135.1180. 1. This section shall be known and may be cited as the
2 "Developmental Disability Care Provider Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Certificate", a tax credit certificate issued under this section;

5 (2) "Department", the Missouri department of social services;

6 (3) "Eligible donation", donations received by a provider from a taxpayer
7 that are used solely to provide direct care services to persons with developmental
8 disabilities who are residents of this state. Eligible donations may include cash,
9 publicly traded stocks and bonds, and real estate that will be valued and
10 documented according to rules promulgated by the department of social
11 services. For purposes of this section, "direct care services" include, but are not
12 limited to, increasing the quality of care and service for persons with
13 developmental disabilities through improved employee compensation and
14 training;

15 (4) "Qualified developmental disability care provider" or "provider", a care
16 provider that provides assistance to persons with developmental disabilities, and
17 is accredited by the Council on Accreditation (COA), the Joint Commission on
18 Accreditation of Healthcare Organizations (JCAHO), or the Commission on
19 Accreditation of Rehabilitation Facilities (CARF), or is under contract with the
20 Missouri department of social services or department of mental health to provide
21 treatment services for such persons, and that receives eligible donations. Any
22 provider that operates more than one facility or at more than one location shall
23 be eligible for the tax credit under this section only for any eligible donation
24 made to facilities or locations of the provider which are licensed or accredited;

25 (5) "Taxpayer", any of the following individuals or entities who make an
26 eligible donation to a provider:

27 (a) A person, firm, partner in a firm, corporation, or a shareholder in an
28 S corporation doing business in the state of Missouri and subject to the state
29 income tax imposed in chapter 143;

30 (b) A corporation subject to the annual corporation franchise tax imposed
31 in chapter 147;

32 (c) An insurance company paying an annual tax on its gross premium
33 receipts in this state;

34 (d) Any other financial institution paying taxes to the state of Missouri
35 or any political subdivision of this state under chapter 148;

36 (e) An individual subject to the state income tax imposed in chapter 143;

37 (f) Any charitable organization which is exempt from federal income tax
38 and whose Missouri unrelated business taxable income, if any, would be subject
39 to the state income tax imposed under chapter 143.

40 3. For all taxable years beginning on or after January 1, 2012, any
41 taxpayer shall be allowed a credit against the taxes otherwise due under chapter

42 143, 147, or 148 excluding withholding tax imposed by sections 143.191 to
43 143.265 in an amount equal to fifty percent of the amount of an eligible donation,
44 subject to the restrictions in this section. The amount of the tax credit claimed
45 shall not exceed the amount of the taxpayer's state income tax liability in the tax
46 year for which the credit is claimed. Any amount of credit that the taxpayer is
47 prohibited by this section from claiming in a tax year shall not be refundable, but
48 may be carried forward to any of the taxpayer's four subsequent taxable years.

49 4. To claim the credit authorized in this section, a provider may submit
50 to the department an application for the tax credit authorized by this section on
51 behalf of taxpayers. The department shall verify that the provider has submitted
52 the following items accurately and completely:

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

54 (2) A statement attesting to the eligible donation received, which shall
55 include the name and taxpayer identification number of the individual making
56 the eligible donation, the amount of the eligible donation, and the date the
57 eligible donation was received by the provider; and

58 (3) Payment from the provider equal to the value of the tax credit for
59 which application is made. If the provider applying for the tax credit meets all
60 criteria required by this subsection, the department shall issue a certificate in the
61 appropriate amount.

62 5. Tax credits issued under this section may be assigned, transferred,
63 sold, or otherwise conveyed, and the new owner of the tax credit shall have the
64 same rights in the credit as the taxpayer. Whenever a certificate is assigned,
65 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed
66 with the department specifying the name and address of the new owner of the tax
67 credit or the value of the credit.

68 6. The department shall promulgate rules to implement the provisions of
69 this section. Any rule or portion of a rule, as that term is defined in section
70 536.010, that is created under the authority delegated in this section shall
71 become effective only if it complies with and is subject to all of the provisions of
72 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
73 nonseverable and if any of the powers vested with the general assembly pursuant
74 to chapter 536 to review, to delay the effective date, or to disapprove and annul
75 a rule are subsequently held unconstitutional, then the grant of rulemaking
76 authority and any rule proposed or adopted after August 28, 2012, shall be
77 invalid and void.

78 7. Under section 23.253 of the Missouri sunset act[:

79 (1) The provisions of the new program authorized under this section shall
80 automatically sunset on December 31, 2016, unless reauthorized by an act of the
81 general assembly; and

82 (2) If such program is reauthorized, the program authorized under this
83 section shall automatically sunset twelve years after the effective date of the
84 reauthorization of this section; and

85 (3) This section shall terminate on September first of the calendar year
86 immediately following the calendar year in which the program authorized under
87 this section is sunset], **the provisions of the program authorized under**
88 **this section are hereby reauthorized and shall automatically sunset on**
89 **August 28, 2027.**

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Bill

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