

SECOND REGULAR SESSION

# SENATE BILL NO. 647

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RICHARD.

Read 1st time January 11, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4958S.011

## AN ACT

To repeal sections 253.550 and 253.559, RSMo, and to enact in lieu thereof three new sections relating to the funding of the capitol complex revitalization project.

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

Section A. Sections 253.550 and 253.559, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as section 8.008, 253.550, and  
3 253.559, to read as follows:

8.008. 1. There is hereby created in the state treasury the  
2 "Capitol Complex Revitalization Fund", which shall consist of funds  
3 transferred from the general revenue fund as provided by subsection  
4 7 of section 253.350. The state treasurer shall be custodian of the fund.  
5 In accordance with sections 30.170 and 30.180, RSMo, the state  
6 treasurer may approve disbursements. The fund shall be a dedicated  
7 fund and, upon appropriation, money in the fund shall be used solely  
8 for the purposes described in subsection 2 of this section.

9 2. Money in this fund shall be used by the division of facilities  
10 management, design, and construction to renovate and restore the  
11 facilities and grounds of the state capitol, the governor's mansion, and  
12 the supreme court building, and to convert the building occupied on  
13 August 28, 2012, by the Missouri department of transportation at 105  
14 West Capitol Avenue as an annex to the state capitol.

15 3. Notwithstanding the provisions of section 33.080, RSMo, to the  
16 contrary, any moneys remaining in the fund at the end of the biennium  
17 shall not revert to the credit of the general revenue fund.

18 4. The state treasurer shall invest moneys in the fund in the  
19 same manner as other funds are invested. Any interest and moneys  
20 earned on such investments shall be credited to the fund.

253.550. 1. Any taxpayer incurring costs and expenses for the  
2 rehabilitation of eligible property, which is a certified historic structure or  
3 structure in a certified historic district, may, subject to the provisions of this  
4 section and section 253.559, receive a credit against the taxes imposed pursuant  
5 to chapters 143 and 148, except for sections 143.191 to 143.265, on such taxpayer  
6 in an amount equal to twenty-five percent of the total costs and expenses of  
7 rehabilitation incurred after January 1, 1998, which shall include, but not be  
8 limited to, qualified rehabilitation expenditures as defined under section  
9 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related  
10 regulations thereunder, provided the rehabilitation costs associated with  
11 rehabilitation and the expenses exceed fifty percent of the total basis in the  
12 property and the rehabilitation meets standards consistent with the standards  
13 of the Secretary of the United States Department of the Interior for rehabilitation  
14 as determined by the state historic preservation officer of the Missouri  
15 department of natural resources.

16 2. During the period beginning on January 1, 2010, but ending on or after  
17 June 30, 2010, the department of economic development shall not approve  
18 applications for tax credits under the provisions of subsections 3 and 8 of section  
19 253.559 which, in the aggregate, exceed seventy million dollars, increased by any  
20 amount of tax credits for which approval shall be rescinded under the provisions  
21 of section 253.559. For each fiscal year beginning on or after July 1, 2010,  
22 **except as provided in subsection 5 of this section**, the department of  
23 economic development shall not approve applications for tax credits under the  
24 provisions of subsections 3 and 8 of section 253.559 which, in the aggregate,  
25 exceed one hundred forty million dollars, increased by any amount of tax credits  
26 for which approval shall be rescinded under the provisions of section  
27 253.559. The limitations provided under this subsection shall not apply to  
28 applications approved under the provisions of subsection 3 of section 253.559 for  
29 projects to receive less than two hundred seventy-five thousand dollars in tax  
30 credits.

31 3. For all applications for tax credits approved on or after January 1,  
32 2010, no more than two hundred fifty thousand dollars in tax credits may be  
33 issued for eligible costs and expenses incurred in the rehabilitation of an eligible  
34 property which is a nonincome producing single-family, owner-occupied  
35 residential property and is either a certified historic structure or a structure in  
36 a certified historic district.

37 4. The limitations on tax credit authorization provided under the  
38 provisions of subsections 2 and 3 of this section shall not apply to:

39 (1) Any application submitted by a taxpayer, which has received approval  
40 from the department prior to January 1, 2010; or

41 (2) Any taxpayer applying for tax credits, provided under this section,  
42 which, on or before January 1, 2010, has filed an application with the department  
43 evidencing that such taxpayer:

44 (a) Has incurred costs and expenses for an eligible property which exceed  
45 the lesser of five percent of the total project costs or one million dollars and  
46 received an approved Part I from the Secretary of the United States Department  
47 of Interior; or

48 (b) Has received certification, by the state historic preservation officer,  
49 that the rehabilitation plan meets the standards consistent with the standards  
50 of the Secretary of the United States Department of the Interior, and the  
51 rehabilitation costs and expenses associated with such rehabilitation shall exceed  
52 fifty percent of the total basis in the property.

53 **5. For each fiscal year beginning on or after July 1, 2013, and**  
54 **ending with the fiscal year after the amount of funds transferred under**  
55 **subsection 7 of this section equals fifty million dollars in the aggregate,**  
56 **the department of economic development shall not approve**  
57 **applications for tax credits under the provisions of subsections 3 and**  
58 **8 of section 253.559 which, in the aggregate, exceed fifty million dollars,**  
59 **increased by any amount of tax credits for which approval shall be**  
60 **rescinded under the provisions of section 253.559. The limitations**  
61 **provided under this subsection shall not apply to applications approved**  
62 **under the provisions of subsection 3 of section 253.559 for projects to**  
63 **receive less than two hundred seventy-five thousand dollars in tax**  
64 **credits.**

65 **6. In lieu of the limitations on tax credit authorization provided**  
66 **under the provisions of subsection 5 of this section, the limitations on**  
67 **tax credit authorization provided under the provisions of subsection 2**  
68 **of this section shall apply to:**

69 (1) Any application submitted by a taxpayer, which has received  
70 approval from the department prior to August 28, 2012; or

71 (2) Any application for tax credits provided under this section  
72 for a project, which on or before August 28, 2012:

73           **(a) Received an approved Part I from the Secretary of the United**  
74 **States Department of Interior and has incurred costs and expenses for**  
75 **an eligible property which exceed the lesser of fifteen percent of the**  
76 **total project costs or three million dollars; or**

77           **(b) Has received certification, by the state historic preservation**  
78 **officer, that the rehabilitation plan meets the standards consistent with**  
79 **the standards of the Secretary of the United States Department of the**  
80 **Interior, and the rehabilitation costs and expenses associated with such**  
81 **rehabilitation would, upon completion, be expected to exceed fifty**  
82 **percent of the total basis in the property.**

83           **7. The department of economic development shall estimate the**  
84 **amount of additional state tax revenues to be collected based on the**  
85 **provisions of subsection 5 of this section by December 1, 2013, and by**  
86 **December first of each subsequent year. Beginning fiscal year 2015,**  
87 **and continuing for any subsequent fiscal year, an amount equal, in the**  
88 **aggregate, to the estimated additional tax revenues shall be transferred**  
89 **from the general revenue fund to the Capitol Complex Revitalization**  
90 **Fund created by section 8.008 until the amount of funds transferred**  
91 **from the general revenue fund equals fifty million dollars in the**  
92 **aggregate.**

          253.559. 1. To obtain approval for tax credits allowed under sections  
2 253.545 to 253.559, a taxpayer shall submit an application for tax credits to the  
3 department of economic development. Each application for approval, including  
4 any applications received for supplemental allocations of tax credits as provided  
5 under subsection 8 of this section, shall be prioritized for review and approval,  
6 in the order of the date on which the application was postmarked, with the oldest  
7 postmarked date receiving priority. Applications postmarked on the same day  
8 shall go through a lottery process to determine the order in which such  
9 applications shall be reviewed.

10           2. Each application shall be reviewed by the department of economic  
11 development for approval. In order to receive approval, an application, other  
12 than applications submitted under the provisions of subsection 8 of this section,  
13 shall include:

14           (1) Proof of ownership or site control. Proof of ownership shall include  
15 evidence that the taxpayer is the fee simple owner of the eligible property, such  
16 as a warranty deed or a closing statement. Proof of site control may be evidenced

17 by a leasehold interest or an option to acquire such an interest. If the taxpayer  
18 is in the process of acquiring fee simple ownership, proof of site control shall  
19 include an executed sales contract or an executed option to purchase the eligible  
20 property;

21 (2) Floor plans of the existing structure, architectural plans, and, where  
22 applicable, plans of the proposed alterations to the structure, as well as proposed  
23 additions;

24 (3) The estimated cost of rehabilitation, the anticipated total costs of the  
25 project, the actual basis of the property, as shown by proof of actual acquisition  
26 costs, the anticipated total labor costs, the estimated project start date, and the  
27 estimated project completion date;

28 (4) Proof that the property is an eligible property and a certified historic  
29 structure or a structure in a certified historic district; and

30 (5) Any other information which the department of economic development  
31 may reasonably require to review the project for approval. Only the property for  
32 which a property address is provided in the application shall be reviewed for  
33 approval. Once selected for review, a taxpayer shall not be permitted to request  
34 the review of another property for approval in the place of the property contained  
35 in such application. Any disapproved application shall be removed from the  
36 review process. If an application is removed from the review process, the  
37 department of economic development shall notify the taxpayer in writing of the  
38 decision to remove such application. Disapproved applications shall lose priority  
39 in the review process. A disapproved application, which is removed from the  
40 review process, may be resubmitted, but shall be deemed to be a new submission  
41 for purposes of the priority procedures described in this section.

42 3. If the department of economic development deems the application  
43 sufficient, the taxpayer shall be notified in writing of the approval for an amount  
44 of tax credits equal to the amount provided under section 253.550 less any  
45 amount of tax credits previously approved. Such approvals shall be granted to  
46 applications in the order of priority established under this section and shall  
47 require full compliance thereafter with all other requirements of law as a  
48 condition to any claim for such credits.

49 4. Following approval of an application, the identity of the taxpayer  
50 contained in such application shall not be modified except:

51 (1) The taxpayer may add partners, members, or shareholders as part of  
52 the ownership structure, so long as the principal remains the same, provided

53 however, that subsequent to the commencement of renovation and the  
54 expenditure of at least ten percent of the proposed rehabilitation budget, removal  
55 of the principal for failure to perform duties and the appointment of a new  
56 principal thereafter shall not constitute a change of the principal; or

57 (2) Where the ownership of the project is changed due to a foreclosure,  
58 deed in lieu of a foreclosure or voluntary conveyance, or a transfer in bankruptcy.

59 5. In the event that the department of economic development grants  
60 approval for tax credits equal to the **applicable** total amount available under  
61 subsection 2 **or** 5 of section 253.550, or sufficient that when totaled with all other  
62 approvals, the **applicable** amount available under subsection 2 **or** 5 of section  
63 253.550 is exhausted, all taxpayers with applications then awaiting approval or  
64 thereafter submitted for approval shall be notified by the department of economic  
65 development that no additional approvals shall be granted during the fiscal year  
66 and shall be notified of the priority given to such taxpayer's application then  
67 awaiting approval. Such applications shall be kept on file by the department of  
68 economic development and shall be considered for approval for tax credits in the  
69 order established in this section in the event that additional credits become  
70 available due to the rescission of approvals or when a new fiscal year's allocation  
71 of credits becomes available for approval.

72 6. All taxpayers with applications receiving approval on or after the  
73 effective date of this act shall commence rehabilitation within two years of the  
74 date of issuance of the letter from the department of economic development  
75 granting the approval for tax credits. "Commencement of rehabilitation" shall  
76 mean that as of the date in which actual physical work, contemplated by the  
77 architectural plans submitted with the application, has begun, the taxpayer has  
78 incurred no less than ten percent of the estimated costs of rehabilitation provided  
79 in the application. Taxpayers with approval of a project shall submit evidence of  
80 compliance with the provisions of this subsection. If the department of economic  
81 development determines that a taxpayer has failed to comply with the  
82 requirements provided under this section, the approval for the amount of tax  
83 credits for such taxpayer shall be rescinded and such amount of tax credits shall  
84 then be included in the **applicable** total amount of tax credits, provided under  
85 subsection 2 **or** 5 of section 253.550, from which approvals may be granted. Any  
86 taxpayer whose approval shall be subject to rescission shall be notified of such  
87 from the department of economic development and, upon receipt of such notice,  
88 may submit a new application for the project.

89           7. To claim the credit authorized under sections 253.550 to 253.559, a  
90 taxpayer with approval shall apply for final approval and issuance of tax credits  
91 from the department of economic development which, in consultation with the  
92 department of natural resources, shall determine the final amount of eligible  
93 rehabilitation costs and expenses and whether the completed rehabilitation meets  
94 the standards of the Secretary of the United States Department of the Interior  
95 for rehabilitation as determined by the state historic preservation officer of the  
96 Missouri department of natural resources. For financial institutions credits  
97 authorized pursuant to sections 253.550 to 253.561 shall be deemed to be  
98 economic development credits for purposes of section 148.064. The approval of  
99 all applications and the issuing of certificates of eligible credits to taxpayers shall  
100 be performed by the department of economic development. The department of  
101 economic development shall inform a taxpayer of final approval by letter and  
102 shall issue, to the taxpayer, tax credit certificates. The taxpayer shall attach the  
103 certificate to all Missouri income tax returns on which the credit is claimed.

104           8. Except as expressly provided in this subsection, tax credit certificates  
105 shall be issued in the final year that costs and expenses of rehabilitation of the  
106 project are incurred, or within the twelve-month period immediately following the  
107 conclusion of such rehabilitation. In the event the amount of eligible  
108 rehabilitation costs and expenses incurred by a taxpayer would result in the  
109 issuance of an amount of tax credits in excess of the amount provided under such  
110 taxpayer's approval granted under subsection 3 of this section, such taxpayer may  
111 apply to the department for issuance of tax credits in an amount equal to such  
112 excess. Applications for issuance of tax credits in excess of the amount provided  
113 under a taxpayer's application shall be made on a form prescribed by the  
114 department. Such applications shall be subject to all provisions regarding  
115 priority provided under subsection 1 of this section.

116           9. The department of economic development shall determine, on an annual  
117 basis, the overall economic impact to the state from the rehabilitation of eligible  
118 property.

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