

SECOND REGULAR SESSION

HOUSE BILL NO. 2613

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HELMS.

6643H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.800, RSMo, and to enact in lieu thereof two new sections relating to tax credits for contributions to certain benevolent organizations.

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

Section A. Section 135.800, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.621 and 135.800, to read as follows:

135.621. 1. As used in this section, the following terms mean:

(1) "Contribution", a donation of cash, stock, bonds, other marketable securities, or real property;

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

(3) "Diaper bank", a nonprofit entity located in this state established and operating primarily for the purpose of collecting or purchasing diapers or other hygiene products for infants, children, or incontinent adults and that regularly distributes such diapers or other hygiene products through two or more schools, health care facilities, governmental agencies, or other nonprofit entities for eventual distribution to individuals free of charge;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or otherwise due under chapter 148 or 153;

(5) "Taxpayer", a person, firm, partner in a firm, corporation, or shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed under chapter 143; an insurance company paying an annual tax on its gross premium receipts in this state; any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148; an express company

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 that pays an annual tax on its gross receipts in this state under chapter 153; an individual
19 subject to the state income tax under chapter 143; or any charitable organization that is
20 exempt from federal income tax and whose Missouri unrelated business taxable income,
21 if any, would be subject to the state income tax imposed under chapter 143.

22 2. For all tax years beginning on or after January 1, 2019, a taxpayer shall be
23 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal
24 to fifty percent of the amount of such taxpayer's contributions to a diaper bank.

25 3. The amount of the tax credit claimed shall not exceed the amount of the
26 taxpayer's state tax liability for the tax year for which the credit is claimed, and such
27 taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per
28 tax year. However, any tax credit that cannot be claimed in the tax year the contribution
29 was made may be carried over only to the next succeeding tax year. No tax credit issued
30 under this section shall be assigned, transferred, or sold.

31 4. Except for any excess credit that is carried over under subsection 3 of this
32 section, no taxpayer shall be allowed to claim a tax credit unless the taxpayer contributes
33 at least one hundred dollars to one or more diaper banks during the tax year for which the
34 credit is claimed.

35 5. The department shall determine, at least annually, which entities in this state
36 qualify as diaper banks. The department may require of an entity seeking to be classified
37 as a diaper bank any information which is reasonably necessary to make such a
38 determination. The department shall classify an entity as a diaper bank if such entity
39 satisfies the definition under subsection 1 of this section.

40 6. The department shall establish a procedure by which a taxpayer can determine
41 if an entity has been classified as a diaper bank.

42 7. Diaper banks may decline a contribution from a taxpayer.

43 8. The cumulative amount of tax credits that may be claimed by all the taxpayers
44 contributing to diaper banks in any one fiscal year shall not exceed one million dollars.
45 Tax credits shall be issued in the order contributions are received. If the amount of tax
46 credits redeemed in a tax year is less than one million dollars, the difference shall be added
47 to the cumulative limit created under this subsection for the next fiscal year and carried
48 over to subsequent fiscal years until claimed.

49 9. The department shall establish a procedure by which, from the beginning of the
50 fiscal year until some point in time later in the fiscal year to be determined by the
51 department, the cumulative amount of tax credits are equally apportioned among all
52 entities classified as diaper banks. If a diaper bank fails to use all, or some percentage to
53 be determined by the department, of its apportioned tax credits during this predetermined

54 period of time, the department may reapportion such unused tax credits to diaper banks
55 that have used all, or some percentage to be determined by the department, of their
56 apportioned tax credits during this predetermined period of time. The department may
57 establish multiple periods each fiscal year and reapportion accordingly. To the maximum
58 extent possible, the department shall establish the procedure described under this
59 subsection in such a manner as to ensure that taxpayers can claim as many of the tax
60 credits as possible, up to the cumulative limit created under subsection 8 of this section.

61 **10. Each diaper bank shall provide information to the department concerning the**
62 **identity of each taxpayer making a contribution and the amount of the contribution. The**
63 **department shall provide the information to the department of revenue. The department**
64 **shall be subject to the confidentiality and penalty provisions of section 32.057 relating to**
65 **the disclosure of tax information.**

66 **11. Under section 23.253 of the Missouri sunset act:**

67 **(1) The provisions of the program authorized under this section shall automatically**
68 **sunset on December thirty-first six years after the effective date of this section unless**
69 **reauthorized by an act of the general assembly;**

70 **(2) If such program is reauthorized, the program authorized under this section**
71 **shall automatically sunset on December thirty-first six years after the effective date of the**
72 **reauthorization of this section;**

73 **(3) This section shall terminate on September first of the calendar year immediately**
74 **following the calendar year in which the program authorized under this section is sunset;**
75 **and**

76 **(4) The provisions of this subsection shall not be construed to limit or in any way**
77 **impair the department's ability to issue tax credits authorized on or before the date the**
78 **program authorized under this section expires or a taxpayer's ability to redeem such tax**
79 **credits.**

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, ~~and~~ the shared care tax credit
42 created pursuant to section 192.2015, **and the diaper bank tax credit created pursuant to**
43 **section 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.

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