IN THE SUPREME COURT OF MISSOURI

CAUSE NO. SC91025

BARBARA MANZARA AND KEITH MARQUARD

APPELLANTS,

V.

STATE OF MISSOURI AND
INTERVENOR NORTHSIDE REGENERATION, L.L.C.

RESPONDENTS

APPEAL FROM THE
NINETEENTH JUDICIAL CIRCUIT COURT
DIVISION 4
HON. PATRICIA S. JOYCE

RESPONDENT/INTERVENOR NORTHSIDE REGENERATION LLC'S BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Missouri Constitution

Missouri Statutes

STATEMENT OF FACTS

A. The Distressed Areas Land Assemblage Tax Credit Act

1. Purpose of the Act

Section 99.1205, R.S.Mo., known as the Distressed Areas Land Assemblage Tax Credit Act ("Act"), fosters large-scale urban redevelopment within distressed and disadvantaged areas historically ignored by meaningful or lasting development activity. Under the Act, qualifying redevelopers are eligible to apply for a land assemblage tax credit. The eligibility requirements and limitations on use of the tax credit are strictly regulated by the statute.

The Act applies to the assemblage of large tracts of land—seventy-five acres or more—at least 80% of which are located within either:

(a) Qualified Census Tracts, as identified by the United States Department of Housing and Urban Development. A Qualified Census Tract is an area in which either (i) 50% or more of the households have incomes which are less than 60% of the area median gross income or (ii) the poverty rate is at least 25%. 26 U.S.C. §42; or

(b) Distressed Communities, as identified by the State of Missouri in accordance with R.S.Mo. § 135.530. A Distressed Community is an area in which the median household income is under 70% of the median household income for the particular metropolitan statistical

area or other non-metropolitan areas in Missouri, according to the last decennial census. R.S.Mo. § 135.530.

See R.S.Mo. § 99.1205.2(8).

2. Preconditions to the Issuance of Tax Credits

The Act presupposes that an applicant has acquired the requisite blighted, substandard or insanitary property for redevelopment under existing economic incentive laws and programs. R.S.Mo. § 99.1205.2(2). Once that is done, the Act imposes several preconditions to the issuance of tax credits.

First, as set forth above, the redeveloper must acquire a minimum of seventy-five acres within an Eligible Project Area, at least 80% of which must be in a Qualified Census Tract or Distressed Community. Of the seventy-five acres, fifty acres must consist of parcels, called "Eligible Parcels," that satisfy the following criteria:

(a) the parcels must be subject to redevelopment in accordance with a municipally sponsored redevelopment plan and redevelopment agreement;

(b) the redeveloper cannot have commenced construction on the parcels prior to November 28, 2007;

(c) the redeveloper cannot use eminent domain to acquire any of the parcels;

(d) the redeveloper may not include parcels acquired from a municipal authority, such as a city, county, tax increment financing commission or land trust; and

(e) the applicant must pay all outstanding municipal taxes, fines, and bills levied on an eligible parcel during the time that the applicant held title. R.S.Mo. § 99.1205.2(7)(e).

Additionally, to qualify for the tax credits, the redeveloper must be selected as a redeveloper under a program authorized by an economic incentive law. Under the Real Property Tax Increment Allocation Redevelopment Act, RSMo §§ 99.800 to 99.865, R.S.Mo. (the "TIF Act"), for example, the satisfaction of this precondition necessitates that the redeveloper has:

(a) submitted an application to the appropriate entity to receive the benefit of the economic incentive, such as a tax increment financing commission;

(b) submitted a redevelopment plan and associated documents establishing, among other things, the existence of blight within the redevelopment area. R.S.Mo. § 99.810.1;

(c) received the approval of the redevelopment plan, which would also have included the redeveloper being appointed or selected as the redeveloper under the plan. R.S.Mo. §§ 99.820.4(2) & 825.1;

(d) received the approval by the governing body of municipality of the redevelopment plan, which approval would have

included the redeveloper being appointed or selected as the redeveloper under the plan. R.S.Mo. § 99.820.1(1); and

(e) entered into a redevelopment agreement with the municipality for the implementation of the redevelopment plan. R.S.Mo. § 99.820.1(2); § 99.1205.2(2)(b), (15).

3. Ensuring Benefits and Redevelopment to Blighted and Disadvantaged Areas

The Act ties the issuance of credits to the costs associated with the assemblage of property within a disadvantaged or distressed area. A redeveloper can annually apply to the Missouri Department of Economic Development to receive tax credits equal to 50% of the acquisition costs and 100% of the interest costs related to the acquisition of Eligible Parcels. The Act defines acquisition costs to include the purchase price for an Eligible Parcel, costs of environmental assessments, closing costs, brokerage fees, reasonable demolition costs for vacant structures and reasonable maintenance costs incurred within five years after acquiring an Eligible Parcel. R.S.Mo. §§ 99.1205.2(1) and 99.1205.3. The Act defines Interest costs to include interest, loan fees, and closing costs. R.S.Mo. § 99.1205.2(9).

While the tax credits are transferable, the Act requires that the applicant use any funds generated from the use or sale of credits to redevelop an eligible project area: "The funds generated through the use or sale of the tax credits issued under this section

shall be used to redevelop the eligible project area." R.S.Mo. § 99.1205.2(2)(b)a (emphasis added).

B. Procedural History

On October 9, 2009, Appellants filed their Petition for Declaratory Judgment against the State of Missouri challenging the constitutionality of the Act. Appellants filed an Amended Petition on November 2, 2009. Appellants' sole claim is that the Act does not serve a public purpose and therefore is an unconstitutional grant or lending of public funds under Article III, §§ 38 and 39 of the Missouri Constitution.

Respondent State of Missouri filed its Answer on November 13, 2009. The State alleged that Appellants lacked standing and that the Act did not violate Article III, § 38(a) or § 39(1) or (2). Legal File ("LF") 21. Respondent Northside intervened in the case on December 28, 2009 and thereafter filed its Answer. Northside likewise denied that Appellants had standing and asserted that the Act did not violate Article III, § 38(a) or § 39(1) or (2). LF 29. Following a bench trial on March 10, 2010, the Court issued its Findings of Fact, Conclusions of Law, and Judgment and Order dated March 29, 2010. The trial court ruled that Appellants lacked standing to challenge the Act and upheld the constitutionality of the Act.

POINTS RELIED ON

I. THE TRIAL COURT PROPERLY DENIED APPELLANTS' CONSTITUTIONAL CHALLENGE BECAUSE THE PRIMARY INTENT AND EFFECT OF THE ACT IS TO SERVE THE PUBLIC PURPOSE OF FOSTERING REDEVELOPMENT OF BLIGHTED AND HISTORICALLY DISADVANTAGED AREAS. (RESPONSE TO APPELLANTS' POINT IV.)

Article III, §38(a) provides as follows:

> 38(a) The general assembly shall have no power to grant public money or property, or lend or authorize the lending of public credit, to any private person, association or corporation, excepting aid in public calamity, and general laws providing for pensions for the blind, for old age assistance, for aid to dependent or crippled children or the blind, for direct relief, for adjusted compensation, bonus or rehabilitation for discharged members of the armed services of the United States who were bona fide residents of this state during their service, and for the rehabilitation of other persons. Money or property may also be received from the United States and be redistributed together

> with public money of this state for any public purpose designated by the United States.

Article III, §§39 (1) and (2) provide as follows:

> 39. The general assembly shall not have power:
>
> (1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;
>
> (2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation.

The tax credits do not violate Article III for two reasons. First, under previous decisions of this Court, the credits do not constitute a grant or lending of public money, property or credit and, therefore, the credits do not implicate either section. Second, even if §§ 38 and 39 are implicated, the tax credits are constitutional because they serve a legitimate and recognized public purpose.

A. Presumption of Constitutionality

In Missouri, statutes are presumed constitutional and, accordingly, this Court holds the challenging party to a rigorous burden of proof:

> A statute is presumed valid and will not be held unconstitutional unless it clearly contravenes a constitutional provision. The person challenging the statute's validity bears the burden of proving the act

clearly and undoubtedly violates the constitution.

F.R. v. St. Charles County Sheriff's Dept., 301 S.W.3d 56, 61 (Mo. 2010). Indeed, "the deference due the General Assembly requires that doubt be resolved against nullifying its action if it is possible to do so by any reasonable construction of that action or by any reasonable construction of the Constitution." *Board of Educ. Of City of St. Louis v. City of St. Louis*, 879 S.W.2d 530, 533 (Mo. banc 1994).

B. Tax Credits Are Not an Extension of the Credit of the State or Payment of Public Money

Tax credits issued under the Act are not, by their nature, grants of public credit. They do not evidence or constitute any loan or extension of credit by the State. Unlike the credits involved in *Curchin*, discussed more fully *infra* at pages16-18, the credits do not guaranty or collateralize any State obligation.

Likewise, the tax credits do not constitute a grant of public funds. In *Missouri Merchants & Manufacturers Ass'n v. State*, 42 S.W.3d 628 (Mo. *banc* 2001), this Court held that tax credits that are used to reduce a taxpayer's liability (such as the tax credits at issue here) are excluded from the definition of "total state revenues" under the Hancock Amendment to the Missouri Constitution. Thus, if the applicant's (or ultimate user's) taxable income is not considered a state revenue, the elimination of that income cannot constitute an expenditure of public funds.

Because the tax credit at issue here is not a grant or lending of public money, property or credit, §§ 38(a) and 39(a) and (2) of Article III are not implicated, and the Court should affirm the trial court's Judgment.

C. The Act Serves the Long-Recognized Public Purpose of Promoting the Redevelopment of Blighted and Disadvantaged Areas

This Court has previously held that if a grant of public funds serves a public purpose, it does not violate the constitutional prohibition against granting public funds to private entities. *Fust v. Attorney General for State of Missouri*, 947 S.W.2d 424, 429-30 (Mo. *banc* 1997); *Menorah Medical Ctr. v. Health & Educ. Facilities Auth.*, 584 S.W.2d 73, 78 (Mo. *banc* 1979).

The Court employs a "primary effect" test to determine whether there is a sufficient public interest in the context of constitutional challenges under §§ 38 and 39:

> [I]n determining whether there is sufficient public purpose behind the grant of public money to render such a grant constitutional, Missouri uses the "primary effect" test. If the primary intent of the public expenditure is to serve a public purpose, the expenditure will be considered legal. If the primary purpose is to promote a private end, the expense will be considered illegal, even if it may incidentally serve some public interest.

Moschenross v. St. Louis County, 188 S.W.3d 13, 21-22 (Mo. App. E.D. 2006)(internal citations omitted); *see also State ex. rel Wagner v. St. Louis County Port Auth.*, 604 S.W.2d 592, 597 (Mo. *banc* 1980)("If the primary purpose of a statute is public the fact

that special benefits may accrue to some private person does not deprive government action of its public character, such benefits being incidental to the primary public purpose."). The determination of a public purpose is primarily left to the legislature, and it will not be overturned unless it is found to be arbitrary and unreasonable. *Menorah*, 584 S.W.2d at 78.

It has long been the position of this Court that the "[r]edevelopment of blighted, substandard or insanitary areas is a public purpose." *Tierney v. Planned Industrial Expansion Authority of Kansas City*, 742 S.W.2d 146, 150 (Mo. *banc* 1987). The Missouri Constitution explicitly recognizes rehabilitation of blighted and disadvantaged areas as a laudable public purpose. *See* Missouri Constitution, Article VI, § 21 ("Laws may be enacted, and any city or county operating under a constitutional charter may enact ordinances, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas."). Under the Act, a municipality must approve the applicant as a redeveloper of blighted conditions *and* the applicant must agree to use the tax credit proceeds in furtherance of that redevelopment. The Act's furtherance of this recognized public objective could not be more explicit or more direct.

Appellants' constitutional challenge is ultimately based upon a complete mischaracterization of the Act. Appellants assert that "there is nothing in the statute that ties the use of the tax credits…to 'redevelopment.'" App. Br. at 26. Appellants never mention that the Act absolutely requires that "[t]he funds generated through the use or

sale of the tax credits issued under this section shall be used to redevelop the eligible project area." R.S.Mo. § 99.1205.2(2)(b)a.

The Act's requirement that an applicant actually use the credit proceeds to further municipal redevelopment frankly distinguishes the Act from other statutes that the courts have upheld despite arguably more attenuated connections with their stated public interests. The Missouri courts give the public purpose underlying subsidy or other similar appropriations the broadest possible intendment. In *Rice v. Ashcroft,* 831 S.W.2d 206, 209 (Mo. App. W.D. 1991) and *Moschenross, supra,* for example, the Courts of Appeals held that the construction of the Edward Jones Dome and the new St. Louis Cardinals baseball stadium constituted constitutionally sufficient public purposes.

Rice involved the financing for the construction of what is now known as the Edward Jones Dome. The somewhat complex statutory framework established a regional sports authority that would issue bonds to finance the construction. The State, City of St. Louis and St. Louis County agreed to lease the facility from the authority and to make lease payments. *Rice,* 831 S.W.2d at 207. A group of Missouri taxpayers claimed that the arrangement violated § 38, relying upon *Curchin.* As indicated, the Court of Appeals stated that "[t]he ruling in *Curchin*, however, was predicated on the unqualified use of state tax credits available to bondholders, not on the utilization of the state using revenue bonds to help the growth of Missouri industry." *Id.* at 209. The Court held that the Edward Jones financing restricted the State's and municipalities' exposure and served a legitimate public purpose: "[a]ny benefits to private persons under [the statutes] are incidental and do not take away from the primary purpose of the

legislation—to increase convention and sports activity in the St. Louis City-County area." *Id*.

Moschenross involved the construction of the new Cardinals baseball stadium. The St. Louis City's redevelopment ordinance contemplated, among other things, that the Missouri Development Finance Board would issue $46,255,000.00 in bonds. *Moschenross,* 188 S.W.3d at 17. St. Louis County agreed to request annual appropriations to finance the bonds. The County indicated that it expected to make the payments from revenues collected from the sports and entertainment tax. *Id.*

After the financing was in place and the bonds were issued, a coalition proposed a County charter amendment that would precondition the bond appropriation upon a vote of a majority of qualified County voters. *Id.,* at 17-18. The County and others filed suit to enjoin the consideration of the charter amendment. The coalition counterclaimed asserting that the bond financing was unconstitutional under Article VI, § 23 of the Missouri Constitution, which provides that no county shall "lend its credit or grant public money or thing of value to or in aid of any corporation, association or individual." The Court of Appeals rejected the coalition's constitutional challenge, relying in part upon *Rice*:

> Although the team owners will incidentally benefit from the development of the ballpark itself, the project extends further than simply the ballpark. Certain mixed-use facilities are to be developed adjacent to the ballpark. . . . It was anticipated that the spending for

> the ballpark project would result in the generation of "direct and indirect economic impacts" as money is spent as a result throughout the region, including the county. The projections estimated the addition of jobs for county residents in permanent positions with the ballpark project and in construction and related jobs. The county economy, and the personal income of its residents also stood to benefit from the development of the ballpark project. Therefore, as the court found in *Rice*, **the primary purpose of the development at issue in the present case is to increase convention and sports activity in the county and city, thereby resulting in economic benefits to the public**. Thus, the county's agreement did not violate Article VI, Section 23 of the constitution.

Moschenross, 188 S.W.2d at 21-22 (emphasis added).

It is the Act's undeniable and unmistakable connection to the public interest that also distinguishes it from the statute struck down in *Curchin v. Mo. Ind. Devel. Bd.*, 722 S.W.2d 930, 935 (Mo. 1987). In *Curchin*, the Court held unconstitutional a statute that allowed the Missouri Industrial Development Board ("IDB") to issue state tax credits for the amount of any unpaid principal and accrued interest in default under industrial revenue bonds. Later decisions have recognized that *Curchin* should not be read to

disqualify all tax credit programs: "The ruling in *Curchin*, however, was predicated on the unqualified use of state tax credits available to bondholders, not on the utilization of the state using revenue bonds to help the growth of Missouri industry." *Rice*, 831 S.W.2d at 209.

The statute at issue in *Curchin* and, accordingly, the concerns raised by this Court in that case, are completely dissimilar to the Act. The Act does not constitute an unrestrained grant of public money. Its benefits are restricted to those who can satisfy the Act's rigid preconditions and the credit proceeds can only be applied to serve the public interest in eliminating blight.

Curchin, on the other hand, dealt with a statute that gave the IDB free reign to couple industrial revenue bonds with tax credits equal to 100% of the unpaid principal and interest due under industrial revenue bonds in default. R.S.Mo. § 100.297. The IDB only had to determine that, *at the time of the issuance* of the *bonds*, the credits were a material inducement to the undertaking of the project and that the project loan was adequately secured. Assuming those findings were originally made, the statute imposed no other preconditions to the issuance of the credits other than a default under the bonds. The statute permitted the IDB to award the credits to the original or any subsequent owner of the bonds. Once issued, the credits were freely transferrable, and the ultimate holder of the credit (whether it be a bondholder or a remote purchaser of the bond and the tax credit) could carry the credits forward for up to ten years. *Id.* at 933.

In *Curchin*, this Court likened the tax credits to states' historical practice of simply giving money to banks or railroad companies, which led to the enactment of

Section 38(a). *Curchin*, 772 S.W.2d at 934. The tax credits, said the Court, were also no different than the industrial bonds ruled unconstitutional in *State ex rel. City of Jefferson v. Smith*, 154 S.W.2d 101 (Mo. 1941). In *Smith*, this Court disallowed the issuance of municipal bonds for the construction of an office building where it found that the ostensible public purpose was a "subterfuge":

> [T]he submission of the question of indebtedness to construct such a building must have been a subterfuge to obtain money to construct a building for the Unemployment Compensation Commission. Furthermore, the subterfuge is an admission that the construction of an office building for the Commission would not be for a municipal public purpose. Furthermore, the provision in the above mentioned ordinance for city offices in the building also is a subterfuge.

Id. at 104.

The Act does not trigger any of the concerns raised by the Court in *Curchin* or *Smith*. The Act places tight controls on the issuance of land assemblage tax credits. Perhaps most important in light of this Court's admonition in *Curchin*, the Act does not afford the State any discretion to choose the recipient of the credits. R.S.Mo. § 99.1205.6. The State can only award the credits to a redeveloper meeting the rigid requirements of the Act and the underlying incentive program (*i.e.*, the TIF Act or other

economic incentive laws). The Act goes a step further to ensure that the credits serve the public purpose for which they were enacted—the funds generated from the use or sale of the tax credits must be used to redevelop the Act eligible project area for which they were issued. R.S.Mo. § 99.1205.2(2)(b)a.

The Act certainly does not contemplate a direct payment of money to a pre-ordained group such as banks or railroads and certainly does not serve an illusory public purpose. The Act is not an abject, unrestricted award of tax credits or bonds to the railroad, banking or any other specified industry. Rather, the Act seeks to benefit, and its provisions are only triggered by a common public goal, the actual redevelopment of distressed and historically ignored areas. A redeveloper can obtain tax credits only *after* there has been meaningful assemblage that has the blessing of the disadvantaged community that it will serve. *Curchin* in no way calls into question the undeniable public purpose of the Act.

Appellants ultimately cannot decide whether the Act is too broad or too narrow. At one point, Appellants argue that, because the requirements to qualify under § 99.1205 are so rigid, only a few would ever be able to benefit from the tax credits, "thus lending itself to abuse and making it analogous to the railroad grants." App. Br. p. 25. Later, Appellants indicate that they are concerned that the Act "actually incentivizes the accumulation of large parcels of land in the eligible area and the holding of those parcels for at least five years." App. Br. p. 26. As to the latter concern, the mere assemblage of land accomplishes nothing under the Act. The applicant must also obtain a municipality's imprimatur to improve disadvantaged and blighted areas.

Because the primary intent of the Act is to serve the public purpose of redevelopment of blighted areas, the Act is constitutional. Accordingly, the trial court properly denied Appellants' constitutional challenge.

II. THE TRIAL COURT PROPERLY DETERMINED THAT APPELLANTS LACK STANDING TO CHALLENGE § 99.1205 BECAUSE THE TAX CREDITS HERE DO NOT INVOLVE THE SPENDING OF TAX REVENUES. (RESPONSE TO APPELLANTS' POINTS I-III.)

"In order to have standing, a taxpayer must demonstrate either: (1) a direct expenditure of funds generated through taxation, (2) an increased levy in taxes, or (3) a pecuniary loss attributable to the challenged transaction of a municipality." *State ex rel. Nixon v. Am. Tobacco Co., Inc*., 34 S.W3d 122, 132 (Mo. *banc* 2000). To establish standing, taxpayers "must show that their taxes went or will go to public funds that have been or will be expended due to the challenged action." *O'Reilly v. City of Hazelwood*, 850 S.W.2d 96, 96 (Mo. *banc* 1993). *See also, e.g., Comm. for Educ. Equal. v. State*, 294 S.W.3d 477, 487 (Mo. *banc* 2009) (plaintiff taxpayers have standing to raise assessment challenges "to the extent that they allege that the State is spending tax revenue improperly").

Appellants claim standing based upon an alleged expenditure of tax revenue. However, there is no expenditure of tax revenue here. Rather, Appellants challenge the reduced tax obligation of another through the tax credits available under the Act. In *Missouri Merchants & Manufacturers Ass'n v. State*, 42 S.W.3d 628 (Mo. *banc* 2001), this Court held that tax credits that are used to reduce a taxpayer's liability (such as the tax credits at issue here) are excluded from the definition of "total state revenues" under the Hancock Amendment to the Missouri Constitution:

> To apply the tax credit language of Hancock, a tax credit used to reduce a person's tax liability, as well as "imputed tax components of rental payments," as in section 135.010(7), are specifically to be excluded from "total state revenues."

Missouri Merchants, 42 S.W.3d at 635.[1]

Because tax credits are excluded from the definition of "total state revenue" under the Missouri Constitution, Appellants cannot demonstrate an expenditure of funds generated through taxation and therefore cannot demonstrate taxpayer standing. *See O'Reilly*, 850 S.W.2d at 96. *Accord W.R. Grace & Co. v. Hughlett*, 729 S.W.2d 203, 206-207 (Mo. *banc* 1987)("We fail to see how it can be said that appellant has been *'adversely affected by the statute[s] in question'* when those statutes would merely excuse the tax obligations of others").

Appellants' reliance upon *Curchin* for the proposition that tax credits at issue here constitute an expenditure of tax revenues so as to confer taxpayer standing is misplaced. *Curchin* was decided prior to this Court's decision in *Missouri Merchants* and did not address the issue of taxpayer standing. Further, *Curchin* involved the issuance of revenue bonds that allowed a tax credit upon default. *See id*., 722 S.W.2d at 931. Thus, unlike here, *Curchin* involved the expenditure of state revenues in the form of industrial bonds. To the extent that *Curchin* is deemed to conflict with *Missouri*

[1] *See* Argument section I. B. *supra.*

Merchants on the issue of whether a tax credit constitutes an expenditure of state tax revenues, *Missouri Merchants* should control.

Because Appellants do not challenge the expenditure of tax revenue, Appellants do not have standing to challenge the constitutionality of the Act. Therefore, the trial court properly dismissed Appellants' claims.

CONCLUSION

For the reasons set forth above, the trial court properly rejected Appellants' constitutional challenges to the Act. Accordingly, this Court should affirm the trial court's ruling.

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CERTIFICATE OF COMPLIANCE AND SERVICE

This brief complies with the requirement of Rule 84.04 and Local Rule 365. This brief contains 4,260 words (excluding the cover, signature block, this certificate, table of contents and table of authorities) as determined by the software application for Microsoft Word. The CD-ROM disk filed with this brief bears a copy of the brief and has been scanned for viruses and is virus-free.

Two copies of this brief and one CD-ROM bearing a copy of the brief were sent via U.S. Mail on January 20, 2011 to:

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APPENDIX

Table of Contents

Missouri Constitution

Missouri Statutes

Missouri Constitution
Article VI
LOCAL GOVERNMENT
Section 21

August 28, 2010

Reclamation of blighted, substandard or insanitary areas.

Section 21. Laws may be enacted, and any city or county operating under a constitutional charter may enact ordinances, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.

(1954) Land Clearance for Redevelopment Law (RSMo, § 99.300 et seq.) does not contravene this provision of the Constitution. State on Inf. Dalton v. Land Clearance for Redev. Auth., 364 Mo. 974, 270 S.W.2d 44.

(1954) In determining the validity of slum clearance legislation granting power of eminent domain, § 28, Art. I, and § 21, Art. VI, are to be construed together and as so construed a legislative finding that a blighted or insanitary area exists so as to authorize the exercise of the power of eminent domain is conclusive on the courts in absence of allegation and proof that the finding is arbitrary, or induced by fraud, collusion or bad faith. State on Inf. Dalton v. Land Clearance for Redev. Auth., 364 Mo. 974, 270 S.W.2d 44; (1954) Land Clearance for Redev. Auth. v. City of St. Louis (Mo.), 270 S.W.2d 58.

(2008) Section authorizes non-charter as well as charter cities to exercise power of eminent domain. City of Arnold v. Tourkakis, 249 S.W.3d 202 (Mo.banc).

Missouri General Assembly

Missouri Constitution
Article VI
LOCAL GOVERNMENT
Section 23

August 28, 2010

FINANCES

Limitation on ownership of corporate stock, use of credit and grants of public funds by local governments.

Section 23. No county, city or other political corporation or subdivision of the state shall own or subscribe for stock in any corporation or association, or lend its credit or grant public money or thing of value to or in aid of any corporation, association or individual, except as provided in this constitution.

Source: Const. of 1875, Art. IV, § 47, Art. IX, § 6.

(1954) Section 99.450, RSMo, which requires sale of property cleared at public expense at fair value is not grant of special privilege or of public property in aid of private persons. State on Inf. Dalton v. Land Clearance for Redev. Auth. 364 Mo. 974, 270 S.W.2d 44; (1954) Land Clearance for Redev. Auth. v. City of St. Louis (Mo.), 270 S.W.2d 58.

Missouri General Assembly

Missouri Revised Statutes
Chapter 99
Municipal Housing
Section *99.810*

August 28, 2010

Redevelopment plan, contents, adoption of plan, required findings--time limitations--reports by department of economic development, required when, contents.

99.810. 1. Each redevelopment plan shall set forth in writing a general description of the program to be undertaken to accomplish the objectives and shall include, but need not be limited to, the estimated redevelopment project costs, the anticipated sources of funds to pay the costs, evidence of the commitments to finance the project costs, the anticipated type and term of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued, the most recent equalized assessed valuation of the property within the redevelopment area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to section 99.845, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the redevelopment area. No redevelopment plan shall be adopted by a municipality without findings that:

(1) The redevelopment area on the whole is a blighted area, a conservation area, or an economic development area, and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. Such a finding shall include, but not be limited to, a detailed description of the factors that qualify the redevelopment area or project pursuant to this subdivision and an affidavit, signed by the developer or developers and submitted with the redevelopment plan, attesting that the provisions of this subdivision have been met;

(2) The redevelopment plan conforms to the comprehensive plan for the development of the municipality as a whole;

(3) The estimated dates, which shall not be more than twenty-three years from the adoption of the ordinance approving a redevelopment project within a redevelopment area, of completion of any redevelopment project and retirement of obligations incurred to finance redevelopment project costs have been stated, provided that no ordinance approving a redevelopment project shall be adopted later than ten years from the adoption of the ordinance approving the redevelopment plan under which such project is authorized and provided that no property for a redevelopment project shall be acquired by eminent domain later than five years from the adoption of the ordinance approving such redevelopment project;

(4) A plan has been developed for relocation assistance for businesses and residences;

(5) A cost-benefit analysis showing the economic impact of the plan on each taxing district which is at least partially within the boundaries of the redevelopment area. The analysis shall show the impact on the economy if the project is not built, and is built pursuant to the redevelopment plan under consideration. The cost-benefit analysis shall include a fiscal impact study on every affected political subdivision, and sufficient information from the developer for the commission established in section 99.820 to evaluate whether the project as proposed is financially feasible;

(6) A finding that the plan does not include the initial development or redevelopment of any gambling establishment, provided however, that this subdivision shall be applicable only to a redevelopment plan adopted for a redevelopment area designated by ordinance after December 23, 1997.

2. By the last day of February each year, each commission shall report to the director of economic development the name, address, phone number and primary line of business of any business which relocates to the district. The director of the department of economic development shall compile and report the same to the governor, the speaker of the house and the president pro tempore of the senate on the last day of April each year.

(L. 1982 H.B. 1411 & 1587 § 3 subsec. 1, A.L. 1986 S.B. 664 merged with H.B. 989 & 1390, A.L. 1987 S.B. 367 Revision, A.L. 1991 H.B. 502, A.L. 1993 H.B. 566, A.L. 1997 2d Ex. Sess. S.B. 1)

Effective 12-23-97

(2006) Term "acquired" under section refers not to time of filing condemnation petition but to transfer of ownership from property owner to condemnor upon payment of commissioner's award into court or to property owner. State ex rel. Broadway-Washington v. Manners, 186 S.W.3d 272 (Mo. banc).

 Missouri General Assembly

Missouri Revised Statutes
Chapter 99
Municipal Housing
Section *99.820*

August 28, 2010

Municipalities' powers and duties--commission appointment and powers--public disclosure requirements--officials' conflict of interest, prohibited.

99.820. 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the

development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 or 3 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the

area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments. Members appointed by the county executive or presiding

commissioner prior to August 28, 2008, shall continue their service on the commission established in subsection 3 of this section without further appointment unless the county executive or presiding commissioner appoints a new member or members.

3. Beginning August 28, 2008:

(1) In lieu of a commission created under subsection 2 of this section, any city, town, or village in a county with a charter form of government and with more than one million inhabitants, in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, or in a county of the first classification with more than one hundred eighty-five thousand but fewer than two hundred thousand inhabitants shall, prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, create a commission consisting of twelve persons to be appointed as follows:

(a) Six members appointed either by the county executive or presiding commissioner; notwithstanding any provision of law to the contrary, no approval by the county's governing body shall be required;

(b) Three members appointed by the cities, towns, or villages in the county which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;

(c) Two members appointed by the school boards whose districts are included in the county in a manner in which the school boards agree; and

(d) One member to represent all other districts levying ad valorem taxes in the proposed redevelopment area in a manner in which all such districts agree.

No city, town, or village subject to this subsection shall create or maintain a commission under subsection 2 of this section, except as necessary to complete a public hearing for which notice under section 99.830 has been provided prior to August 28, 2008, and to vote or make recommendations relating to redevelopment plans, redevelopment projects, or designation of redevelopment areas, or amendments thereto that were the subject of such public hearing;

(2) Members appointed to the commission created under this subsection, except those six members appointed by either the county executive or presiding commissioner, shall serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan, or designation of a redevelopment area is considered for approval by the commission. The six members appointed by either the county executive or the presiding commissioner shall serve on all such commissions until replaced. The city,

town, or village that creates a commission under this subsection shall send notice thereof by certified mail to the county executive or presiding commissioner, to the school districts whose boundaries include any portion of the proposed redevelopment area, and to the other taxing districts whose boundaries include any portion of the proposed redevelopment area. The city, town, or village that creates the commission shall also be solely responsible for notifying all other cities, towns, and villages in the county that have tax increment financing districts and shall exercise all administrative functions of the commission. The school districts receiving notice from the city, town, or village shall be solely responsible for notifying the other school districts within the county of the formation of the commission. If the county, school board, or other taxing district fails to appoint members to the commission within thirty days after the city, town, or village sends the written notice, as provided herein, that it has convened such a commission or within thirty days of the expiration of any such member's term, the remaining duly appointed members of the commission may exercise the full powers of the commission.

4. (1) Any commission created under this section, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830.

(2) Any commission created under subsection 2 of this section shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

(3) Any commission created under subsection 3 of this section shall, within fifteen days of the receipt of a redevelopment plan meeting the minimum requirements of section 99.810, as determined by counsel to the city, town, or village creating the commission and a request by the applicable city, town, or village for a public hearing, fix a time and place for the public hearing referred to in section 99.825. The public hearing shall be held no later than seventy-five days from the commission's receipt of such redevelopment plan and request for public hearing. The commission shall vote and make recommendations to the governing body of the city, town, or village requesting the public hearing on all proposed redevelopment plans, redevelopment projects, and designations of redevelopment areas, and amendments thereto within thirty days following the completion of the public hearing. If the commission fails to vote within thirty days following the completion of the public hearing referred to in section 99.825 concerning

the proposed redevelopment plan, redevelopment project, or designation of redevelopment area, or amendments thereto, such plan, project, designation, or amendment thereto shall be deemed rejected by the commission.

(L. 1982 H.B. 1411 & 1587 § 3 subsec. 3, A.L. 1991 H.B. 502, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 S.B. 707 & 484, A.L. 2003 S.B. 11, A.L. 2007 H.B. 741, A.L. 2007 1st Ex. Sess H.B. 1, A.L. 2008 H.B. 2058 merged with S.B. 718)

(2000) Proposed city charter amendment requiring two-thirds voter approval on every tax increment financing measure violated section and thus was unconstitutional pursuant to article VI, section 19(a). State ex rel. Hazelwood Yellow Ribbon Committee v. Klos, 35 S.W.3d 457 (Mo.App.E.D.).

Missouri Revised Statutes
Chapter 99
Municipal Housing
Section *99.825*

August 28, 2010

Adoption of ordinance for redevelopment, public hearing required--objection procedure--hearing and notices not required, when--restrictions on certain projects.

99.825. 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing as required in subsection 4 of section 99.820 and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing; provided, if the commission is created under subsection 3 of section 99.820, the hearing shall not be continued for more than thirty days beyond the date on which it is originally opened unless such longer period is requested by the chief elected official of the municipality creating the commission and approved by a majority of the commission. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing

district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two- thirds majority vote of the governing body of such municipality.

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.

(L. 1982 H.B. 1411 & 1587 § 4, A.L. 1986 S.B. 664 merged with H.B. 989 & 1390, A.L. 1991 H.B. 502, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 2007 H.B. 741, A.L. 2008 H.B. 2058 merged with S.B. 718)

Missouri Revised Statutes
Chapter 100
Industrial Development
Section *100.297*

August 28, 2010

Tax credit for owner of revenue bonds or notes, purpose, when, amount, limitation.

100.297. 1. The board may authorize a tax credit, as described in this section, to the owner of any revenue bonds or notes issued by the board pursuant to the provisions of sections 100.250 to 100.297, for infrastructure facilities as defined in subdivision (9) of section 100.255, if, prior to the issuance of such bonds or notes, the board determines that:

(1) The availability of such tax credit is a material inducement to the undertaking of the project in the state of Missouri and to the sale of the bonds or notes;

(2) The loan with respect to the project is adequately secured by a first deed of trust or mortgage or comparable lien, or other security satisfactory to the board.

2. Upon making the determinations specified in subsection 1 of this section, the board may declare that each owner of an issue of revenue bonds or notes shall be entitled, in lieu of any other deduction with respect to such bonds or notes, to a tax credit against any tax otherwise due by such owner pursuant to the provisions of chapter 143, excluding withholding tax imposed by sections 143.191 to 143.261, chapter 147, or chapter 148, in the amount of one hundred percent of the unpaid principal of and unpaid interest on such bonds or notes held by such owner in the taxable year of such owner following the calendar year of the default of the loan by the borrower with respect to the project. The occurrence of a default shall be governed by documents authorizing the issuance of the bonds. The tax credit allowed pursuant to this section shall be available to the original owners of the bonds or notes or any subsequent owner or owners thereof. Once an owner is entitled to a claim, any such tax credits shall be transferable as provided in subsection 7 of section 100.286. Notwithstanding any provision of Missouri law to the contrary, any portion of the tax credit to which any owner of a revenue bond or note is entitled pursuant to this section which exceeds the total income tax liability of such owner of a revenue

bond or note shall be carried forward and allowed as a credit against any future taxes imposed on such owner within the next ten years pursuant to the provisions of chapter 143, excluding withholding tax imposed by sections 143.191 to 143.261, chapter 147, or chapter 148. The eligibility of the owner of any revenue bond or note issued pursuant to the provisions of sections 100.250 to 100.297 for the tax credit provided by this section shall be expressly stated on the face of each such bond or note. The tax credit allowed pursuant to this section shall also be available to any financial institution or guarantor which executes any credit facility as security for bonds issued pursuant to this section to the same extent as if such financial institution or guarantor was an owner of the bonds or notes, provided however, in such case the tax credits provided by this section shall be available immediately following any default of the loan by the borrower with respect to the project. In addition to reimbursing the financial institution or guarantor for claims relating to unpaid principal and interest, such claim may include payment of any unpaid fees imposed by such financial institution or guarantor for use of the credit facility.

3. The aggregate principal amount of revenue bonds or notes outstanding at any time with respect to which the tax credit provided in this section shall be available shall not exceed fifty million dollars.

(L. 1985 H.B. 416, A.L. 1994 H.B. 1248 & 1048, A.L. 1997 2d Ex. Sess. S.B. 1)

Effective 12-23-97

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, 135.800 to 135.830

Missouri Revised Statutes
Chapter 135
Tax Relief
Section *135.530*

August 28, 2010

Distressed community defined.

135.530. For the purposes of sections 100.010, 100.710, 100.850, 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530, 135.545, 215.030, 348.300, 348.302, and 620.1400 to 620.1460**, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred with each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five. In metropolitan statistical areas, the definition shall include areas that were designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1, 1986, but shall not include expansions of such state enterprise zones done after March 16, 1988.

(L. 1998 H.B. 1656, A.L. 1999 S.B. 20, A.L. 2004 S.B. 1155, A.L. 2010 H.B. 1965)

*Contingent effective date, see § 135.204

**Sections 620.1400 to 620.1460 were repealed by S.B. 1155, 2004.

Distressed community defined.

135.530. For the purposes of sections 100.010, 100.710 and 100.850, sections 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530 and 135.545, section 215.030, sections 348.300 and 348.302, and sections 620.1400 to 620.1460**, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the last decennial census, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the last decennial census. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the last decennial census or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the last decennial census. In metropolitan statistical areas, the definition shall include areas that were designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1, 1986, but shall not include expansions of such state enterprise zones done after March 16, 1988.

(L. 1998 H.B. 1656, A.L. 1999 S.B. 20, A.L. 2004 S.B. 1155)

*This section was amended by H.B. 1965, see § 135.204.

**Sections 620.1400 to 620.1460 were repealed by S.B. 1155, 2004.

Missouri General Assembly