

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 409

By: Gumm

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 2357.41, as amended by Section 2, Chapter 186, O.S.L. 2003 (68 O.S. Supp. 2004, Section 2357.41), which relates to income tax credits; expanding eligibility for credit for certain rehabilitation expenditures after specified date; limiting transferability of certain credit; modifying definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.41, as amended by Section 2, Chapter 186, O.S.L. 2003 (68 O.S. Supp. 2004, Section 2357.41), is amended to read as follows:

Section 2357.41 A. For tax years beginning after ~~December 31, 2000~~ December 31, 2005, there shall be allowed a credit against the tax imposed by ~~Section~~ Sections 2355 and ~~Section~~ 2370 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for qualified rehabilitation expenditures incurred in connection with any certified historic ~~hotel or historic newspaper plant~~ building located in an increment or incentive district created pursuant to the Local Development Act. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code.

B. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit

against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

C. All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building. A certified historic ~~hotel building or historic newspaper plant~~ building may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

D. The amount of the credit allowed for any credit claimed for a certified historic hotel or historic newspaper plant building, but not used, shall be freely transferable to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the

validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

E. As used in this section:

1. "Certified historic ~~hotel or historic newspaper plant~~ building" means a ~~hotel or newspaper plant~~ building that is listed on the National Register of Historic Places within three (3) years of taking the credit pursuant to this section; and

2. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that related to historic preservation, safety, or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

SECTION 2. This act shall become effective January 1, 2006.

50-1-595

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