

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1685

By: Thompson

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5  
6 AS INTRODUCED

7 An Act relating to tax credit; amending 68 O.S. 2021,  
8 Section 2357.403, which relates to the Oklahoma  
9 Affordable Housing Act; stating certain credit limit  
10 shall not exceed certain federal credit; updating  
11 statutory language; and providing an effective date.

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

12 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.403, is  
13 amended to read as follows:

14 Section 2357.403. A. This act shall be known and may be cited  
15 as the "Oklahoma Affordable Housing Act".

16 B. As used in this section:

17 1. "Allocation year" means the year for which the Oklahoma  
18 Housing Finance Agency allocates credits pursuant to this section;

19 2. "Eligibility statement" means a statement authorized and  
20 issued by the Oklahoma Housing Finance Agency certifying that a  
21 given project qualifies for the Oklahoma Affordable Housing Tax  
22 Credit authorized by this section. The Oklahoma Housing Finance  
23 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter  
24 36, Affordable Housing Tax Credit Program Rules, shall promulgate  
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1 rules establishing criteria upon which the eligibility statements  
2 will be issued. The eligibility statement shall specify the amount  
3 of Oklahoma Affordable Housing Tax Credits allocated to a qualified  
4 project. The Oklahoma Housing Finance Agency shall only authorize  
5 the tax credits created by this section to qualified projects which  
6 are placed in service after July 1, 2015, but which shall not be  
7 used to reduce tax liability accruing prior to January 1, 2016;

8 3. "Federal low-income housing tax credit" means the federal  
9 tax credit as provided in Section 42 of the Internal Revenue Code of  
10 1986, as amended;

11 4. "Oklahoma Affordable Housing Tax Credit" means the tax  
12 credit created by this section;

13 5. "Qualified project" means a qualified low-income building as  
14 that term is defined in Section 42 of the Internal Revenue Code of  
15 1986, as amended; and

16 6. "Taxpayer" means a person, firm or corporation subject to  
17 the tax imposed by Section 2355 of this title or an insurance  
18 company subject to the tax imposed by Section 624 or 628 of Title 36  
19 of the Oklahoma Statutes or other financial institution subject to  
20 the tax imposed by Section 2370 of this title.

21 C. For qualified projects placed in service after July 1, 2015,  
22 the amount of state tax credits created by this section which are  
23 allocated to a project shall ~~be equal to~~ not exceed that of the  
24 federal low-income housing tax credits for a qualified project. The  
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1 total Oklahoma Affordable Housing Tax Credits allocated to all  
2 qualified projects for an allocation year shall not exceed Four  
3 Million Dollars (\$4,000,000.00). For purposes of this section, the  
4 "credit period" shall mean the period of ten (10) taxable years and  
5 "placed in service" shall have the same meaning as is applicable  
6 under the federal credit program.

7 D. A taxpayer owning an interest in an investment in a  
8 qualified project shall be allowed Oklahoma Affordable Housing Tax  
9 Credits under this section for tax years beginning on or after  
10 January 1, 2016, if the Oklahoma Housing Finance Agency issues an  
11 eligibility statement for such project, which tax credit shall be  
12 allocated among some or all of the partners, members or shareholders  
13 of the taxpayer owning such interest in any manner agreed to by such  
14 partners, members or shareholders. Such taxpayer may assign its  
15 interest in the investment.

16 E. An insurance company claiming a credit against state premium  
17 tax or retaliatory tax or any other tax imposed by Section 624 or  
18 628 of Title 36 of the Oklahoma Statutes shall not be required to  
19 pay any additional retaliatory tax under Section 628 of Title 36 of  
20 the Oklahoma Statutes as a result of claiming the credit. The  
21 credit may fully offset any retaliatory tax imposed by Section 628  
22 of Title 36 of the Oklahoma Statutes.

23 F. The credit authorized by this section shall not be used to  
24 reduce the tax liability of the taxpayer to less than zero (\$0.00).

1 G. Any credit claimed but not used in a taxable year may be  
2 carried forward two (2) subsequent taxable years.

3 H. The owner of a qualified project eligible for the credit  
4 authorized by this section shall submit, at the time of filing the  
5 tax return with the Oklahoma Tax Commission, an eligibility  
6 statement from the Oklahoma Housing Finance Agency. In the case of  
7 failure to attach the eligibility statement, no credit under this  
8 section shall be allowed with respect to such project for that year  
9 until required documents are provided to the Tax Commission.

10 I. If under Section 42 of the Internal Revenue Code of 1986, as  
11 amended, a portion of any federal low-income housing credits taken  
12 on a qualified project is required to be recaptured during the first  
13 ten (10) years after a project is placed in service, the taxpayer  
14 claiming Oklahoma Affordable Housing Tax Credits with respect to  
15 such project shall also be required to recapture a portion of such  
16 credits. The amount of Oklahoma Affordable Housing Tax Credits  
17 subject to recapture shall be proportionally equal to the amount of  
18 federal low-income housing credits subject to recapture.

19 J. The Oklahoma Housing Finance Agency or the Oklahoma Tax  
20 Commission may require the filing of additional documentation  
21 necessary to determine the accuracy of a tax credit claimed.

22 K. The Oklahoma Affordable Housing Act shall undergo a review  
23 every five (5) years by a committee of nine (9) persons, to be  
24 appointed three persons each by the Governor, President Pro Tempore  
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1 of the ~~Oklahoma State~~ Senate, and the Speaker of the ~~Oklahoma~~ House  
2 of Representatives.

3 SECTION 2. This act shall become effective November 1, 2022.

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