

1 **SENATE FLOOR VERSION**

2 February 26, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 416

5 By: Bice

6 **[ tax credits - investment in affordable housing**  
7 **projects - effective date ]**

8  
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.  
11 2014 (68 O.S. Supp. 2018, Section 2357.403), is amended to read as  
12 follows:

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

15 B. As used in this section:

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

18 2. "Eligibility statement" means a statement authorized and  
19 issued by the Oklahoma Housing Finance Agency certifying that a  
20 given project qualifies for the Oklahoma Affordable Housing Tax  
21 Credit authorized by this section. The Oklahoma Housing Finance  
22 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter  
23 36, Affordable Housing Tax Credit Program Rules, shall promulgate  
24 rules establishing criteria upon which the eligibility statements

1 will be issued. The eligibility statement shall specify the amount  
2 of Oklahoma Affordable Housing Tax Credits allocated to a qualified  
3 project. The Oklahoma Housing Finance Agency shall only authorize  
4 the tax credits created by this section to qualified projects which  
5 are placed in service after July 1, 2015, but which shall not be  
6 used to reduce tax liability accruing prior to January 1, 2016;

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

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

12 5. "Qualified project" means a qualified low-income building as  
13 that term is defined in Section 42 of the Internal Revenue Code of  
14 1986, as amended, which is located in this state in a county with a  
15 population of less than one hundred fifty thousand (150,000)  
16 according to the latest Federal Decennial Census; and

17 6. "Taxpayer" means a person, firm or corporation subject to the  
18 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or  
19 an insurance company subject to the tax imposed by Section 624 or  
20 628 of Title 36 of the Oklahoma Statutes or other financial  
21 institution subject to the tax imposed by Section 2370 of Title 68  
22 of the Oklahoma Statutes.

23 C. For qualified projects placed in service after July 1, 2015,  
24 the amount of state tax credits created by this section which are

1 allocated to a project shall be equal to that of the federal low-  
2 income housing tax credits for a qualified project. The total  
3 Oklahoma Affordable Housing Tax Credits allocated to all qualified  
4 projects for an allocation year shall not exceed Four Million Dollars  
5 (\$4,000,000.00). For purposes of this section, the "credit period"  
6 shall mean the period of ten (10) taxable years for credits **allocated**  
7 **to a qualified project** before January 1, 2020 and five (5) taxable  
8 years for credits **allocated to a qualified project** on and after  
9 January 1, 2020, and "placed in service" shall have the same meaning  
10 as is applicable under the federal credit program.

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

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

1 may fully offset any retaliatory tax imposed by Section 628 of Title  
2 36 of the Oklahoma Statutes.

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

5 G. Any credit claimed but not used in a taxable year may be  
6 carried forward to each of the five (5) subsequent taxable years.

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

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

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

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

9 SECTION 2. This act shall become effective November 1, 2019.

10 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
11 February 26, 2019 - DO PASS AS AMENDED  
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