

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 2128

By: Jolley, Justice and Griffin
of the Senate

6 and

7 Martin (Scott) and Sears of
8 the House

9
10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; enacting the
12 Oklahoma Affordable Housing Tax Incentive Act of
13 2014; defining terms; authorizing specified amount of
14 credit to be claimed against various tax types for
15 certain qualified projects within specified time
16 period; setting cap on credits which may be claimed
17 for a specified project and for all projects within
18 certain time period; providing method for allocating
19 credits under cap; requiring certain eligibility
20 statement; authorizing taxpayer to assign specified
21 interest; providing for treatment of liability for
22 retaliatory tax; providing that credit is not
23 refundable and may be carried forward for specified
24 time period; requiring certain documentation be
provided for credit to be allowed; providing for
recapture of credit under specified circumstances and
to specified extent; providing for review of the act
under specified time frame; providing for
codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2357.403 of Title 68, unless
3 there is created a duplication in numbering, reads as follows:

4 A. This act shall be known and may be cited as the "Oklahoma
5 Affordable Housing Act".

6 B. As used in this section:

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

9 2. "Eligibility statement" means a statement authorized and
10 issued by the Oklahoma Housing Finance Agency certifying that a
11 given project qualifies for the Oklahoma Affordable Housing Tax
12 Credit authorized by this section. The Oklahoma Housing Finance
13 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter
14 36, Affordable Housing Tax Credit Program Rules, shall promulgate
15 rules establishing criteria upon which the eligibility statements
16 will be issued. The eligibility statement shall specify the amount
17 of Oklahoma Affordable Housing Tax Credits allocated to a qualified
18 project. The Oklahoma Housing Finance Agency shall only authorize
19 the tax credits created by this section to qualified projects which
20 are placed in service after July 1, 2015, but which shall not be
21 used to reduce tax liability accruing prior to January 1, 2016;

22 3. "Federal low-income housing tax credit" means the federal tax
23 credit as provided in Section 42 of the Internal Revenue Code of
24 1986, as amended;

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

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

8 6. "Taxpayer" means a person, firm or corporation subject to the
9 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or
10 an insurance company subject to the tax imposed by Section 624 or
11 628 of Title 36 of the Oklahoma Statutes or other financial
12 institution subject to the tax imposed by Section 2370 of Title 68
13 of the Oklahoma Statutes.

14 C. For qualified projects placed in service after July 1, 2015,
15 the amount of state tax credits created by this section which are
16 allocated to a project shall be equal to that of the federal low-
17 income housing tax credits for a qualified project. The total
18 Oklahoma Affordable Housing Tax Credits allocated to all qualified
19 projects for an allocation year shall not exceed Four Million Dollars
20 (\$4,000,000.00). For purposes of this section, the "credit period"
21 shall mean the period of ten (10) taxable years and "placed in
22 service" shall have the same meaning as is applicable under the
23 federal credit program.

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1 D. A taxpayer owning an interest in an investment in a qualified
2 project shall be allowed Oklahoma Affordable Housing Tax Credits
3 under this section for tax years beginning on or after January 1,
4 2016, if the Oklahoma Housing Finance Agency issues an eligibility
5 statement for such project, which tax credit shall be allocated
6 among some or all of the partners, members or shareholders of the
7 taxpayer owning such interest in any manner agreed to by such
8 partners, members or shareholders. Such taxpayer may assign its
9 interest in the investment.

10 E. An insurance company claiming a credit against state premium
11 tax or retaliatory tax or any other tax imposed by Section 624 or 628
12 of Title 36 of the Oklahoma Statutes shall not be required to pay
13 any additional retaliatory tax under Section 628 of Title 36 of the
14 Oklahoma Statutes as a result of claiming the credit. The credit
15 may fully offset any retaliatory tax imposed by Section 628 of Title
16 36 of the Oklahoma Statutes.

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

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

21 H. The owner of a qualified project eligible for the credit
22 authorized by this section shall submit, at the time of filing the
23 tax return with the Oklahoma Tax Commission, an eligibility
24 statement from the Oklahoma Housing Finance Agency. In the case of

1 failure to attach the eligibility statement, no credit under this
2 section shall be allowed with respect to such project for that year
3 until required documents are provided to the Tax Commission.

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

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

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

21 SECTION 2. This act shall become effective January 1, 2015.

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