

1 ENGROSSED HOUSE
2 BILL NO. 2040

By: Nichols, Davis, Menz,
Martinez, Schreiber,
Hefner, Dollens, Hilbert,
Bennett, and Townley of the
House

and

Matthews of the Senate

8 An Act relating to revenue and taxation; amending
9 68 O.S. 2021, Section 2357.403, as amended by
10 Section 1, Chapter 139, O.S.L. 2022 (68 O.S. Supp.
11 2022, Section 2357.403), which relates to
affordable housing tax credits; increasing amount
of tax credits; making tax credit nonrefundable;
and providing an effective date.

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

15 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.403, as
16 amended by Section 1, Chapter 139, O.S.L. 2022 (68 O.S. Supp. 2022,
17 Section 2357.403), is amended to read as follows:

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

20 B. As used in this section:

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

23 2. "Eligibility statement" means a statement authorized and
24 issued by the Oklahoma Housing Finance Agency certifying that a

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

12 3. "Federal low-income housing tax credit" means the federal
13 tax credit as provided in Section 42 of the Internal Revenue Code of
14 1986, as amended;

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

17 5. "Qualified project" means a qualified low-income building as
18 that term is defined in Section 42 of the Internal Revenue Code of
19 1986, as amended; and

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

1 C. For qualified projects placed in service after July 1, 2015,
2 the amount of state tax credits created by this section which are
3 allocated to a project shall not exceed that of the federal low-
4 income housing tax credits for a qualified project. The total
5 Oklahoma Affordable Housing Tax Credits allocated to all qualified
6 projects for an allocation year shall not exceed ~~Four Million~~
7 ~~Dollars (\$4,000,000.00)~~ Ten Million Dollars (\$10,000,000.00) until
8 December 31, 2027, and Four Million Dollars (\$4,000,000.00) until
9 December 31, 2033. For purposes of this section, the "credit
10 period" shall mean the period of ten (10) taxable years and "placed
11 in service" shall have the same meaning as is applicable under the
12 federal credit program.

13 D. A taxpayer owning an interest in an investment in a
14 qualified project shall be allowed Oklahoma Affordable Housing Tax
15 Credits under this section for tax years beginning on or after
16 January 1, 2016, if the Oklahoma Housing Finance Agency issues an
17 eligibility statement for such project, which tax credit shall be
18 allocated among some or all of the partners, members or shareholders
19 of the taxpayer owning such interest in any manner agreed to by such
20 partners, members or shareholders. Such taxpayer may assign its
21 interest in the investment, but the tax credit authorized by the
22 provisions of this section shall not be refundable.

23 E. An insurance company claiming a credit against state premium
24 tax or retaliatory tax or any other tax imposed by Section 624 or

1 628 of Title 36 of the Oklahoma Statutes shall not be required to
2 pay any additional retaliatory tax under Section 628 of Title 36 of
3 the Oklahoma Statutes as a result of claiming the credit. The
4 credit may fully offset any retaliatory tax imposed by Section 628
5 of Title 36 of the Oklahoma Statutes.

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

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

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

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

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

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

10 SECTION 2. This act shall become effective January 1, 2024.

11 Passed the House of Representatives the 23rd day of March, 2023.

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Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2023.

Presiding Officer of the Senate