

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2040

By: Nichols

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5
6 AS INTRODUCED

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

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

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

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

19 B. As used in this section:

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

22 2. "Eligibility statement" means a statement authorized and
23 issued by the Oklahoma Housing Finance Agency certifying that a
24 given project qualifies for the Oklahoma Affordable Housing Tax

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

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

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

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

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

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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). For
8 purposes of this section, the "credit period" shall mean the period
9 of ten (10) taxable years and "placed in service" shall have the
10 same meaning as is applicable under the federal credit program.

11 D. A taxpayer owning an interest in an investment in a
12 qualified project shall be allowed Oklahoma Affordable Housing Tax
13 Credits under this section for tax years beginning on or after
14 January 1, 2016, if the Oklahoma Housing Finance Agency issues an
15 eligibility statement for such project, which tax credit shall be
16 allocated among some or all of the partners, members or shareholders
17 of the 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
22 628 of Title 36 of the Oklahoma Statutes shall not be required to
23 pay any additional retaliatory tax under Section 628 of Title 36 of
24 the Oklahoma Statutes as a result of claiming the credit. The

1 credit may fully offset any retaliatory tax imposed by Section 628
2 of Title 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 two (2) 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
16 on a qualified project is required to be recaptured during the first
17 ten (10) years after a project is placed in service, the taxpayer
18 claiming Oklahoma Affordable Housing Tax Credits with respect to
19 such 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
7 of the Senate, and the Speaker of the House of Representatives.

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

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