

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1253

By: Dahm

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5  
6 AS INTRODUCED

7 An Act relating to tax credits; amending 68 O.S.  
8 2011, Section 2357.41, which relates to credits for  
9 qualified rehabilitation expenditures; limiting time  
10 period during which credits may be claimed; and  
11 providing an effective date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.41, is  
14 amended to read as follows:

15 Section 2357.41. A. Except as otherwise provided by subsection  
16 I of this section, for tax years beginning after December 31, 2000,  
17 and ending before January 1, 2022, there shall be allowed a credit  
18 against the tax imposed by Sections 2355 and 2370 of this title or  
19 that portion of the tax imposed by Section 624 or 628 of Title 36 of  
20 the Oklahoma Statutes that would otherwise have been apportioned to  
21 the General Revenue Fund for qualified rehabilitation expenditures  
22 incurred in connection with any certified historic hotel or historic  
23 newspaper plant building located in an increment or incentive  
24 district created pursuant to the Local Development Act or for

1 qualified rehabilitation expenditures incurred after January 1,  
2 2006, in connection with any certified historic structure.

3 B. The amount of the credit shall be one hundred percent (100%)  
4 of the federal rehabilitation credit provided for in Section 47 of  
5 Title 26 of the United States Code. The credit authorized by this  
6 section may be claimed at any time after the relevant local  
7 governmental body responsible for doing so issues a certificate of  
8 occupancy or other document that is a precondition for the  
9 applicable use of the building or structure that is the basis upon  
10 which the credit authorized by this section is claimed.

11 C. All requirements with respect to qualification for the  
12 credit authorized by Section 47 of Title 26 of the United States  
13 Code shall be applicable to the credit authorized by this section.

14 D. If the credit allowed pursuant to this section exceeds the  
15 amount of income taxes due or if there are no state income taxes due  
16 on the income of the taxpayer, the amount of the credit allowed but  
17 not used in any taxable year may be carried forward as a credit  
18 against subsequent income tax liability for a period not exceeding  
19 ten (10) years following the qualified expenditures.

20 E. All rehabilitation work to which the credit may be applied  
21 shall be reviewed by the State Historic Preservation Office which  
22 will in turn forward the information to the National Park Service  
23 for certification in accordance with 36 C.F.R., Part 67. A  
24 certified historic structure may be rehabilitated for any lawful use

1 or uses, including without limitation mixed uses and still retain  
2 eligibility for the credit provided for in this section.

3 F. The amount of the credit allowed for any credit claimed for  
4 a certified historic hotel or historic newspaper plant building or  
5 any certified historic structure, but not used, shall be freely  
6 transferable, in whole or in part, to subsequent transferees at any  
7 time during the five (5) years following the year of qualification.  
8 Any person to whom or to which a tax credit is transferred shall  
9 have only such rights to claim and use the credit under the terms  
10 that would have applied to the entity by whom or by which the tax  
11 credit was transferred. The provisions of this subsection shall not  
12 limit the ability of a tax credit transferee to reduce the tax  
13 liability of the transferee regardless of the actual tax liability  
14 of the tax credit transferor for the relevant taxable period. The  
15 transferor of the credit and the transferee shall jointly file a  
16 copy of the written credit transfer agreement with the Oklahoma Tax  
17 Commission within thirty (30) days of the transfer. Such filing of  
18 the written credit transfer agreement with the Oklahoma Tax  
19 Commission shall perfect such transfer. The written agreement shall  
20 contain the name, address and taxpayer identification number of the  
21 parties to the transfer, the amount of credit being transferred, the  
22 year the credit was originally allowed to the transferor, the tax  
23 year or years for which the credit may be claimed, and a  
24 representation by the transferor that the transferor has neither

1 claimed for its own behalf nor conveyed such credits to any other  
2 transferee. The Tax Commission shall develop a standard form for  
3 use by subsequent transferees of the credit demonstrating  
4 eligibility for the transferee to reduce its applicable tax  
5 liabilities resulting from ownership of the credit. The Tax  
6 Commission shall develop a system to record and track the transfers  
7 of the credit and certify the ownership of the credit and may  
8 promulgate rules to permit verification of the validity and  
9 timeliness of a tax credit claimed upon a tax return pursuant to  
10 this subsection but shall not promulgate any rules which unduly  
11 restrict or hinder the transfers of such tax credit.

12 G. Notwithstanding any other provisions in this section, on or  
13 after January 1, 2009, if a credit allowed pursuant to this section  
14 which has been transferred is subsequently reduced as the result of  
15 an adjustment by the Internal Revenue Service, Tax Commission, or  
16 any other applicable government agency, only the transferor  
17 originally allowed the credit and not any subsequent transferee of  
18 the credit, shall be held liable to repay any amount of disallowed  
19 credit.

20 H. As used in this section:

21 1. "Certified historic hotel or historic newspaper plant  
22 building" means a hotel or newspaper plant building that is listed  
23 on the National Register of Historic Places within thirty (30)  
24 months of taking the credit pursuant to this section.

1           2. "Certified historic structure" means a building that is  
2 listed on the National Register of Historic Places within thirty  
3 (30) months of taking the credit pursuant to this section or a  
4 building located in Oklahoma which is certified by the State  
5 Historic Preservation Office as contributing to the historic  
6 significance of a certified historic district listed on the National  
7 Register of Historic Places, or a local district that has been  
8 certified by the State Historic Preservation Office as eligible for  
9 listing in the National Register of Historic Places; and

10           3. "Qualified rehabilitation expenditures" means capital  
11 expenditures that qualify for the federal rehabilitation credit  
12 provided in Section 47 of Title 26 of the United States Code and  
13 that were paid after December 31, 2000. Qualified rehabilitation  
14 expenditures do not include capital expenditures for nonhistoric  
15 additions except an addition that is required by state or federal  
16 regulations that relate to safety or accessibility. In addition,  
17 qualified rehabilitation expenditures do not include expenditures  
18 related to the cost of acquisition of the property.

19           I. No credit otherwise authorized by the provisions of this  
20 section may be claimed for any event, transaction, investment,  
21 expenditure or other act occurring on or after July 1, 2010, for  
22 which the credit would otherwise be allowable until the provisions  
23 of this subsection shall cease to be operative on July 1, 2012.  
24 Beginning July 1, 2012, the credit authorized by this section may be

1 | claimed for any event, transaction, investment, expenditure or other  
2 | act occurring on or after July 1, 2010, according to the provisions  
3 | of this section. Any tax credits which accrue during the period of  
4 | July 1, 2010, through June 30, 2012, may not be claimed for any  
5 | period prior to the taxable year beginning January 1, 2012. No  
6 | credits which accrue during the period of July 1, 2010, through June  
7 | 30, 2012, may be used to file an amended tax return for any taxable  
8 | year prior to the taxable year beginning January 1, 2012.

9 | SECTION 2. This act shall become effective November 1, 2018.

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