

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1256

By: Dahm

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6 AS INTRODUCED

7 An Act relating to tax credits; amending 68 O.S.  
8 2011, Section 2357.41, which relates to credit for  
9 qualified rehabilitation expenditures; modifying time  
10 period for carrying forward certain credits;  
11 providing an effective date; and declaring an  
12 emergency.

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

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

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

1 expenditures incurred after January 1, 2006, in connection with any  
2 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 if such  
20 expenditures are made before July 1, 2018; provided, for  
21 expenditures made on or after July 1, 2018, the amount of the credit  
22 allowed but not used may be carried forward for a period not  
23 exceeding four (4) years following the qualified expenditures.  
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1 E. All rehabilitation work to which the credit may be applied  
2 shall be reviewed by the State Historic Preservation Office which  
3 will in turn forward the information to the National Park Service  
4 for certification in accordance with 36 C.F.R., Part 67. A  
5 certified historic structure may be rehabilitated for any lawful use  
6 or uses, including without limitation mixed uses and still retain  
7 eligibility for the credit provided for in this section.

8 F. The amount of the credit allowed for any credit claimed for  
9 a certified historic hotel or historic newspaper plant building or  
10 any certified historic structure, but not used, shall be freely  
11 transferable, in whole or in part, to subsequent transferees at any  
12 time during the five (5) years following the year of qualification.  
13 Any person to whom or to which a tax credit is transferred shall  
14 have only such rights to claim and use the credit under the terms  
15 that would have applied to the entity by whom or by which the tax  
16 credit was transferred. The provisions of this subsection shall not  
17 limit the ability of a tax credit transferee to reduce the tax  
18 liability of the transferee regardless of the actual tax liability  
19 of the tax credit transferor for the relevant taxable period. The  
20 transferor of the credit and the transferee shall jointly file a  
21 copy of the written credit transfer agreement with the Oklahoma Tax  
22 Commission within thirty (30) days of the transfer. Such filing of  
23 the written credit transfer agreement with the Oklahoma Tax  
24 Commission shall perfect such transfer. The written agreement shall

1 contain the name, address and taxpayer identification number of the  
2 parties to the transfer, the amount of credit being transferred, the  
3 year the credit was originally allowed to the transferor, the tax  
4 year or years for which the credit may be claimed, and a  
5 representation by the transferor that the transferor has neither  
6 claimed for its own behalf nor conveyed such credits to any other  
7 transferee. The Tax Commission shall develop a standard form for  
8 use by subsequent transferees of the credit demonstrating  
9 eligibility for the transferee to reduce its applicable tax  
10 liabilities resulting from ownership of the credit. The Tax  
11 Commission shall develop a system to record and track the transfers  
12 of the credit and certify the ownership of the credit and may  
13 promulgate rules to permit verification of the validity and  
14 timeliness of a tax credit claimed upon a tax return pursuant to  
15 this subsection but shall not promulgate any rules which unduly  
16 restrict or hinder the transfers of such tax credit.

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

1 H. As used in this section:

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

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

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

1 I. No credit otherwise authorized by the provisions of this  
2 section may be claimed for any event, transaction, investment,  
3 expenditure or other act occurring on or after July 1, 2010, for  
4 which the credit would otherwise be allowable until the provisions  
5 of this subsection shall cease to be operative on July 1, 2012.  
6 Beginning July 1, 2012, the credit authorized by this section may be  
7 claimed for any event, transaction, investment, expenditure or other  
8 act occurring on or after July 1, 2010, according to the provisions  
9 of this section. Any tax credits which accrue during the period of  
10 July 1, 2010, through June 30, 2012, may not be claimed for any  
11 period prior to the taxable year beginning January 1, 2012. No  
12 credits which accrue during the period of July 1, 2010, through June  
13 30, 2012, may be used to file an amended tax return for any taxable  
14 year prior to the taxable year beginning January 1, 2012.

15 SECTION 2. This act shall become effective July 1, 2018.

16 SECTION 3. It being immediately necessary for the preservation  
17 of the public peace, health or safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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