

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 380

By: Bergstrom

AS INTRODUCED

An Act relating to tax credit; amending 68 O.S. 2021, Section 2357.403, as amended by Section 1, Chapter 139, O.S.L. 2022 (68 O.S. Supp. 2022, Section 2357.403), which relates to the Oklahoma Affordable Housing Act; making credit refundable for certain tax years; and providing an effective date.

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

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

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

B. As used in this section:

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

2. "Eligibility statement" means a statement authorized and issued by the Oklahoma Housing Finance Agency certifying that a given project qualifies for the Oklahoma Affordable Housing Tax Credit authorized by this section. The Oklahoma Housing Finance

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

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

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

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

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

23 C. For qualified projects placed in service after July 1, 2015,
24 the amount of state tax credits created by this section which are

1 allocated to a project shall not exceed that of the federal low-
2 income housing tax credits for a qualified project. The total
3 Oklahoma Affordable Housing Tax Credits allocated to all qualified
4 projects for an allocation year shall not exceed Four Million
5 Dollars (\$4,000,000.00). For purposes of this section, the "credit
6 period" shall mean the period of ten (10) taxable years and "placed
7 in service" shall have the same meaning as is applicable under the
8 federal credit program.

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

18 E. An insurance company claiming a credit against state premium
19 tax or retaliatory tax or any other tax imposed by Section 624 or
20 628 of Title 36 of the Oklahoma Statutes shall not be required to
21 pay any additional retaliatory tax under Section 628 of Title 36 of
22 the Oklahoma Statutes as a result of claiming the credit. The
23 credit may fully offset any retaliatory tax imposed by Section 628
24 of Title 36 of the Oklahoma Statutes.

1 F. The For tax year 2023 and previous tax years, credit
2 authorized by this section shall not be used to reduce the tax
3 liability of the taxpayer to less than zero (\$0.00). For tax year
4 2024 and subsequent tax years, if the credit authorized by this
5 section exceeds the tax imposed by Section 2355 of this title, by
6 Section 624 or 628 of Title 36 of the Oklahoma Statutes, or by
7 Section 2370 of this title, the excess amount shall be refunded to
8 the taxpayer.

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

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

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

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 November 1, 2023.

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