

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 56th Legislature (2017)

3 SENATE BILL 46x

By: Daniels

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5  
6 AS INTRODUCED

7 An Act relating to tax credits; amending Section 1,  
8 Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2017, Section  
9 2357.403), which relates to the Oklahoma Affordable  
10 Housing Act; modifying definitions; limiting time  
period during which specified projects qualify for  
credits in certain amount; and declaring an  
emergency.

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

14 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.  
15 2014 (68 O.S. Supp. 2017, Section 2357.403), is amended to read as  
16 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, and before July 1, 2018,  
10 but which shall not be used to reduce tax liability accruing prior  
11 to January 1, 2016;

12 3. "Federal low-income housing tax credit" means the federal tax  
13 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 credit  
16 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, which is located in this state in a county with a  
20 population of less than one hundred fifty thousand (150,000)  
21 according to the latest Federal Decennial Census and which is placed  
22 in service after July 1, 2015, and before July 1, 2018; and

23 6. "Taxpayer" means a person, firm or corporation subject to the  
24 tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~

1 this title or an insurance company subject to the tax imposed by  
2 Section 624 or 628 of Title 36 of the Oklahoma Statutes or other  
3 financial institution subject to the tax imposed by Section 2370 of  
4 ~~Title 68 of the Oklahoma Statutes~~ this title.

5 C. For qualified projects placed in service after July 1, 2015,  
6 and before July 1, 2018, the amount of state tax credits created by  
7 this section which are allocated to a project shall be equal to that  
8 of the federal low-income housing tax credits for a qualified  
9 project. The total Oklahoma Affordable Housing Tax Credits allocated  
10 to all qualified projects for an allocation year shall not exceed  
11 Four Million Dollars (\$4,000,000.00). For purposes of this section,  
12 the "credit period" shall mean the period of ten (10) taxable years  
13 and "placed in service" shall have the same meaning as is applicable  
14 under the federal credit program.

15 D. A taxpayer owning an interest in an investment in a qualified  
16 project shall be allowed Oklahoma Affordable Housing Tax Credits  
17 under this section for tax years beginning on or after January 1,  
18 2016, if the Oklahoma Housing Finance Agency issues an eligibility  
19 statement for such project, which tax credit shall be allocated  
20 among some or all of the partners, members or shareholders of the  
21 taxpayer owning such interest in any manner agreed to by such  
22 partners, members or shareholders. Such taxpayer may assign its  
23 interest in the investment.

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1 E. An insurance company claiming a credit against state premium  
2 tax or retaliatory tax or any other tax imposed by Section 624 or 628  
3 of Title 36 of the Oklahoma Statutes shall not be required to pay  
4 any additional retaliatory tax under Section 628 of Title 36 of the  
5 Oklahoma Statutes as a result of claiming the credit. The credit  
6 may fully offset any retaliatory tax imposed by Section 628 of Title  
7 36 of the Oklahoma Statutes.

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

10 G. Any credit claimed but not used in a taxable year may be  
11 carried forward to each of the five (5) subsequent taxable years.

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

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

1 credits. The amount of Oklahoma Affordable Housing Tax Credits  
2 subject to recapture shall be proportionally equal to the amount of  
3 federal low-income housing credits subject to recapture.

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

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

12 SECTION 2. It being immediately necessary for the preservation  
13 of the public peace, health or safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

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