

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 786

By: Smalley

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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. 2018, Section
9 2357.403), which relates to the Oklahoma Affordable
10 Housing Act; making certain population restriction
11 applicable to specified tax years; modifying carry
12 forward provision for specified tax years; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.
16 2014 (68 O.S. Supp. 2018, Section 2357.403), is amended to read as
17 follows:

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

20 B. As used in this section:

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

23 2. "Eligibility statement" means a statement authorized and
24 issued by the Oklahoma Housing Finance Agency certifying that a
25 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 tax
12 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 credit
15 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, which is located in this state, and if claimed for
19 tax years which begin before January 1, 2020, is also located in a
20 county with a population of less than one hundred fifty thousand
21 (150,000) according to the latest Federal Decennial Census; and

22 6. "Taxpayer" means a person, firm or corporation subject to the
23 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or
24 an insurance company subject to the tax imposed by Section 624 or

1 628 of Title 36 of the Oklahoma Statutes or other financial
2 institution subject to the tax imposed by Section 2370 of Title 68
3 of the Oklahoma Statutes.

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

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

23 E. An insurance company claiming a credit against state premium
24 tax or retaliatory tax or any other tax imposed by Section 624 or 628

1 of Title 36 of the Oklahoma Statutes shall not be required to pay
2 any additional retaliatory tax under Section 628 of Title 36 of the
3 Oklahoma Statutes as a result of claiming the credit. The credit
4 may fully offset any retaliatory tax imposed by Section 628 of Title
5 36 of the Oklahoma Statutes.

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

8 G. Any credit claimed but not used in a taxable year may be
9 carried forward to each of the five (5) subsequent taxable years if
10 claimed for tax years which end before January 1, 2020; provided, if
11 claimed for tax years beginning on or after January 1, 2020, the
12 carry forward period is limited to each of the two (2) subsequent
13 taxable years.

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

21 I. If under Section 42 of the Internal Revenue Code of 1986, as
22 amended, a portion of any federal low-income housing credits taken on
23 a qualified project is required to be recaptured during the first ten
24 (10) years after a project is placed in service, the taxpayer

1 claiming Oklahoma Affordable Housing Tax Credits with respect to such
2 project shall also be required to recapture a portion of such
3 credits. The amount of Oklahoma Affordable Housing Tax Credits
4 subject to recapture shall be proportionally equal to the amount of
5 federal low-income housing credits subject to recapture.

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

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

14 SECTION 2. This act shall become effective November 1, 2019.

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