

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 82

By: Mazzei

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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 credits
9 against various tax types for certain rehabilitation
10 expenditures; modifying time period during which
11 certain tax credits are allowed; providing condition
12 under which credits are allowed after specified date;
13 and providing contingent effective date.

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

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

17 Section 2357.41. A. Except as otherwise provided by subsection
18 I of this section, for tax years beginning after December 31, 2000,
19 and unless reauthorized pursuant to subsection J of this section,
20 ending before January 1, 2019, there shall be allowed a credit
21 against the tax imposed by Sections 2355 and 2370 of this title or
22 that portion of the tax imposed by Section 624 or 628 of Title 36 of
23 the Oklahoma Statutes that would otherwise have been apportioned to
24 the General Revenue Fund for qualified rehabilitation expenditures
incurred in connection with any certified historic hotel or historic
newspaper plant building located in an increment or incentive

1 district created pursuant to the Local Development Act or for
2 qualified rehabilitation expenditures incurred after January 1,
3 2006, in connection with any certified historic structure.

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

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

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

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

1 certified historic structure may be rehabilitated for any lawful use
2 or uses, including without limitation mixed uses and still retain
3 eligibility for the credit provided for in this section.

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

1 representation by the transferor that the transferor has neither
2 claimed for its own behalf nor conveyed such credits to any other
3 transferee. The Tax Commission shall develop a standard form for
4 use by subsequent transferees of the credit demonstrating
5 eligibility for the transferee to reduce its applicable tax
6 liabilities resulting from ownership of the credit. The Tax
7 Commission shall develop a system to record and track the transfers
8 of the credit and certify the ownership of the credit and may
9 promulgate rules to permit verification of the validity and
10 timeliness of a tax credit claimed upon a tax return pursuant to
11 this subsection but shall not promulgate any rules which unduly
12 restrict or hinder the transfers of such tax credit.

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

21 H. As used in this section:

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

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

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

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

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

11 J. The credit provided pursuant to this section shall only be
12 allowed for expenditures made on or after January 1, 2019, if the
13 Oklahoma Legislature reauthorizes this section after review of the
14 report required pursuant to paragraph 14 of Section 5017 of Title 74
15 of the Oklahoma Statutes.

16 SECTION 2. This act shall not become effective as law unless
17 Senate Bill No. 72 of the 1st Session of the 55th Oklahoma
18 Legislature becomes effective as law.

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