

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2760

By: Wallace and Hilbert of the
House

and

Thompson and Rader of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending
Section 1, Chapter 421, O.S.L. 2014, as amended by
Section 1, Chapter 190, O.S.L. 2019 (68 O.S. Supp.
2019, Section 2357.403), which relates to income tax
credits for affordable housing; modifying maximum
credit amount; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.
2014, as amended by Section 1, Chapter 190, O.S.L. 2019 (68 O.S.
Supp. 2019, 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 1. "Allocation year" means the year for which the Oklahoma
2 Housing Finance Agency allocates credits pursuant to this section;

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

16 3. "Federal low-income housing tax credit" means the federal
17 tax credit as provided in Section 42 of the Internal Revenue Code of
18 1986, as amended;

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

21 5. "Qualified project" means a qualified low-income building as
22 that term is defined in Section 42 of the Internal Revenue Code of
23 1986, as amended; and
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1 6. "Taxpayer" means a person, firm or corporation subject to
2 the tax imposed by Section 2355 of this title or an insurance
3 company subject to the tax imposed by Section 624 or 628 of Title 36
4 of the Oklahoma Statutes or other financial institution subject to
5 the tax imposed by Section 2370 of this title.

6 C. For qualified projects placed in service after July 1, 2015,
7 the amount of state tax credits created by this section which are
8 allocated to a project shall be equal to that of the federal low-
9 income housing tax credits for a qualified project. The total
10 Oklahoma Affordable Housing Tax Credits allocated to all qualified
11 projects for an allocation year shall not exceed ~~Four Million~~
12 ~~Dollars (\$4,000,000.00)~~ Two Million Dollars (\$2,000,000.00). For
13 purposes of this section, the "credit period" shall mean the period
14 of ten (10) taxable years and "placed in service" shall have the
15 same meaning as is applicable under the federal credit program.

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

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
3 628 of Title 36 of the Oklahoma Statutes shall not be required to
4 pay any additional retaliatory tax under Section 628 of Title 36 of
5 the Oklahoma Statutes as a result of claiming the credit. The
6 credit may fully offset any retaliatory tax imposed by Section 628
7 of Title 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 two (2) 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
21 on a qualified project is required to be recaptured during the first
22 ten (10) years after a project is placed in service, the taxpayer
23 claiming Oklahoma Affordable Housing Tax Credits with respect to
24 such 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
10 of the Oklahoma State Senate and the Speaker of the Oklahoma House
11 of Representatives.

12 SECTION 2. This act shall become effective January 1, 2020.

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