

SENATE FLOOR VERSION

March 25, 2024

ENGROSSED HOUSE
BILL NO. 4018

By: McBride, Menz, Dollens, and
Munson of the House

and

Seifried of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 2357.403, as amended by Section 1, Chapter 139, O.S.L. 2022 (68 O.S. Supp. 2023, Section 2357.403), which relates to affordable housing tax credits; providing for reallocation of credits; 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. 2023, 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

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

12 3. "Federal low-income housing tax credit" means the federal
13 tax 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
16 credit 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; and

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

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

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

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

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

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

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, 2024.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
12 March 25, 2024 - DO PASS
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