

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 338

By: Fisher

AS INTRODUCED

An Act relating to revenue and taxation; creating the Oklahoma Housing Development Act of 1999; providing short title; defining terms; authorizing income tax credit for taxpayers owning interest in certain housing projects; providing for calculation of amount thereof; allowing credit to be carried forward for certain time period; providing for allocation thereof; requiring certain information and statement to be provided to Oklahoma Tax Commission; requiring Tax Commission to promulgate certain rules; providing for recapture of credit under certain circumstances; allowing taxpayer to exclude portion of certain capital gains from taxation; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.33 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Housing Development Act of 1999".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.34 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Agency" means the Oklahoma Housing Finance Agency or its successor agency;

2. "Eligibility statement" means a statement authorized and issued by the Oklahoma Housing Finance Agency certifying that a given project qualifies for the low-income housing tax credit provided pursuant to the provisions of Section 3 of this act. The

Agency shall promulgate rules establishing criteria upon which the eligibility statements will be issued. The eligibility statement shall specify the amount of the low-income housing tax credit allowed. The Agency shall only authorize the tax credits to qualified projects which begin after July 1, 1999;

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

4. "Low-income project" means a housing project which has restricted rents that do not exceed thirty percent (30%) of median income for at least forty percent (40%) of its units occupied by persons or families having income of sixty percent (60%) or less of the median income, or at least twenty percent (20%) of the units occupied by persons or families having incomes of fifty percent (50%) or less of the median income;

5. "Median income" means those incomes which are determined by the United States Department of Housing and Urban Development guidelines and adjusted for family size;

6. "Qualified Oklahoma project" means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code, as amended, which is located in Oklahoma; and

7. "Taxpayer" means a person, firm or corporation subject to the state income tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.35 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after January 1, 1999, a taxpayer who is the owner of a qualified Oklahoma project shall be allowed a state income tax credit, whether or not allowed a federal tax credit, to be termed the Oklahoma low-income housing tax credit,

if the Oklahoma Housing Finance Agency issues an eligibility statement for that project.

B. The Oklahoma low-income housing tax credit available to a project shall be calculated by multiplying an amount equal to the federal low-income housing tax credit for a qualified Oklahoma project, for a federal tax period, by twenty percent (20%) and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period.

C. The Oklahoma low-income housing tax credit shall be taken against the taxes imposed by Section 2355 of Title 68 of the Oklahoma Statutes. If the tax credit allowed pursuant to the provisions of this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

D. All or any portion of Oklahoma tax credits issued in accordance with the provisions of this act may be allocated to parties who are eligible under the provisions of subsection A of this section. Beginning January 1, 2000, for qualified projects which began on or after January 1, 1999, an owner of a qualified Oklahoma project shall certify to the Oklahoma Tax Commission the amount of credit allocated to each taxpayer. The owner of the project shall provide to the Tax Commission appropriate information so that the low-income housing tax credit can be properly allocated.

E. In the event that recapture of Oklahoma low-income housing tax credits is required pursuant to subsection B of Section 4 of this act, any statement submitted to the Tax Commission as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to

the recapture and the amount of credit previously allocated to such taxpayer.

F. The Tax Commission shall promulgate rules necessary to administer the provisions of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.36 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The owner of a qualified Oklahoma project eligible for the Oklahoma low-income housing tax credit shall submit, at the time of filing the owner's income tax return, an eligibility statement. In the case of failure to attach the eligibility statement, no credit under this act shall be allowed with respect to such project for that year until the eligibility statement is provided to the Oklahoma Tax Commission.

B. If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any federal low-income housing tax credits taken on a low-income project is required to be recaptured, the taxpayer claiming state credits with respect to such project shall also be required to recapture a portion of any state credits authorized by this act. The state recapture amount shall be equal to the proportion of the state credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.37 of Title 68, unless there is created a duplication in numbering, reads as follows:

A taxpayer shall be allowed to exclude from taxation under Section 2355 of Title 68 of the Oklahoma Statutes, a portion of the capital gain, as calculated under the Internal Revenue Code, that results from the sale of a low-income project subsidized by the United States Department of Housing and Urban Development to a

nonprofit or governmental organization, agreeing to preserve or increase the low-income occupancy of the project. The exclusion shall equal twenty-five percent (25%) of the capital gain.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.38 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission may promulgate rules to require the filing of additional documentation necessary to determine the accuracy of a tax preference claimed under the provisions of this act.

SECTION 7. This act shall become effective July 1, 1999.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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