

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 1904

By: Roach of the House

and

Williams of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to economic development; amending Section 11, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 2000, Section 860), as last amended by Section 1 of Enrolled Senate Bill No. 533 of the 1st Session of the 48th Oklahoma Legislature and Section 17, Chapter 342, O.S.L. 1992, as amended by Section 7, Chapter 351, O.S.L. 2000 (62 O.S. Supp. 2000, Section 866), which relate to the Local Development Act; specifying written agreement between property owners and the governing body; adding items that may be contained in the written agreement; amending 62 O.S. 1991, Section 690.2, as last amended by Section 7, Chapter 339, O.S.L. 2000 (62 O.S. Supp. 2000, Section 690.2), which relates to the Oklahoma Enterprise Zone Act; modifying definition; amending Section 4, Chapter 193, O.S.L. 1996, as last amended by Section 2, Chapter 369, O.S.L. 1999, Section 6, Chapter 193, O.S.L. 1996, as last amended by Section 3, Chapter 369, O.S.L. 1999 and Section 7, Chapter 193, O.S.L. 1996, as amended by Section 1, Chapter 236, O.S.L. 1997 (62 O.S. Supp. 2000, Sections 2004, 2006 and 2007), which relate to the Rural Economic Action Plan; modifying provisions related to areas of authorized expenditures; authorizing certain entities to expend funds for certain purposes; amending Section 8, Chapter 351, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.41), which relates to tax credits for certain rehabilitation expenditures; modifying state taxes against which credit can be claimed; amending Section 3, Chapter 167, O.S.L. 1997, as last amended by Section 1, Chapter 241, O.S.L. 2000, Section 4, Chapter 167, O.S.L. 1997, as last amended by Section 2, Chapter 241, O.S.L. 2000, Section 2, Chapter 339, O.S.L. 2000, Section 3, Chapter 339, O.S.L. 2000 and Section 4, Chapter 339, O.S.L. 2000 (68 O.S. Supp. 2000, Sections 2357.62, 2357.63, 2357.72, 2357.73 and 2357.74), which relate to certain income tax credits; modifying restriction related to eligible tax credit claimants; modifying definition; providing for certain tax imposed upon financial institutions as eligible for tax credits; restricting use of tax credit based upon invested amount; amending Section 1, Chapter 220, O.S.L. 1995 (74 O.S. Supp. 2000, Section 317.11), which relates

to certain safety standards; imposing limitation based upon certain retail business activity; repealing Section 3, Chapter 241, O.S.L. 2000, which relates to an effective date provision; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 11, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 2000, Section 860), as last amended by Section 1 of Enrolled Senate Bill No. 533 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 860. A. A project plan may contain a provision that certain local taxes may be subject to incentives or may be exempted in reinvestment areas, historic preservation areas or enterprise areas.

B. The governing body may grant incentives or exemptions from local taxation only on the new investment made. No ad valorem tax incentives or exemptions may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of the project plan. No ad valorem tax incentives or exemptions authorized in this section may be granted for retail establishments. If a retail establishment is located in property which otherwise qualifies for an incentive or exemption pursuant to this section, the incentive or exemption shall not be allowed for that portion of the property used for such retail establishment. As used in this subsection, "retail establishment" shall not include an establishment that provides lodging, including but not limited to a hotel, apartment hotel, public rooming house or motel. No ad valorem tax incentives or exemptions authorized in this section may be granted if the property is located in an increment district or as long as the property is subject to the ad valorem tax exemption for new or expanding manufacturing facilities as authorized by Section 6B of Article X of the Oklahoma Constitution. In the event of

disposition by lease or sublease to a lessee not entitled to an ad valorem tax exemption, the improvements placed thereon shall not be entitled to an ad valorem tax exemption provided for in Section 850 et seq. of this title. The incentives or exemptions, which may be full or partial, may be granted for a period not to exceed five (5) years; however, in enterprise zones incentives or exemptions may be granted for a period not to exceed six (6) years.

C. No incentives or exemptions may be granted to any business or firm that is relocating from within the state and is subject to or in the process of recruitment by two or more governmental entities within the state unless the governmental entity in which the business or firm does not locate adopts a resolution giving their approval to the granting of incentives or exemptions to the business or firm locating in the competing governmental entity. No incentives or exemptions may be granted to an out-of-state business or firm that is subject to or in the process of recruitment by two or more governmental entities within the state except as otherwise provided for in this subsection. The prohibition against incentives or exemptions to a business or firm relocating within the state may be waived upon application by the governing body to, and approval of, the Director of the Oklahoma Department of Commerce. In order for the Director to approve the waiver, the Director must find that the incentives or exemptions are necessary and sufficient to attract the business or firm and that the benefits generated by the business location outweigh the costs of the business location.

D. A project plan may contain a provision that ad valorem taxes may be exempted in a commercial historic preservation area that is adjacent to and serves designated historical residential areas for neighborhood commercial preservation purposes in order for the neighborhood to retain its basic character and scale. No ad valorem tax exemption may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of

the project plan. No ad valorem tax exemption shall be granted pursuant to the provisions of this subsection for single-family residences. The governing body may grant the exemption only on the increase in value of the property. The exemptions may be granted for a specific period of time as determined by ~~the~~ a written agreement between the property owners of the area and the governing body and may be renewed. Uses of the property eligible for this exemption may include but not be limited to commercial, office or multifamily residential use.

SECTION 2. AMENDATORY Section 17, Chapter 342, O.S.L. 1992, as amended by Section 7, Chapter 351, O.S.L. 2000 (62 O.S. Supp. 2000, Section 866), is amended to read as follows:

Section 866. A. There shall be a written agreement between the governing body and the property owners who are granted tax incentives or exemptions pursuant to Section 860 of this title. The written agreement may include, but shall not be limited to, the following:

1. List the kind, number, and location of all proposed improvements to the property;
2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;
3. Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period that the tax incentives or exemptions or the increment financing are in effect;
4. Provide for recapturing the local tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement; and
5. Include any other requirement deemed by the governing body necessary to carry out the agreement.

B. There shall be a written agreement between the governing body and the property owners in historic preservation areas who are granted ad valorem tax exemptions pursuant to subsection D of Section 860 of this title. The written agreement shall include the following:

1. List the location of the property;

2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the property is being maintained according to the specifications and conditions of the agreement;

3. Limit the uses of the property consistent with the general purpose of encouraging neighborhood commercial preservation of the area during the period that the ad valorem tax exemptions are in effect;

4. Provide for recapturing the ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to maintain the property as provided by the agreement; ~~and~~

5. Specify the time frame of the agreement including whether renewals can occur, at what time such renewals can occur and under what conditions renewals can occur;

6. Specify rehabilitations, preservation efforts and other specific actions that should be taken by the property owners on an individual or collective basis;

7. Provide for reciprocal actions by public entities to protect, enhance and improve the commercial historic preservation area and the surrounding residential areas served by such districts;

8. Provide review and approval procedures that may be used when usage or ownership of the property changes; and

9. Include any other requirement deemed by the governing body necessary to carry out the agreement.

C. The governing body shall enter into written agreements with active project participants of increment projects. The written

agreement may include, but shall not be limited to, the provisions specified in paragraphs 1 through 5 of subsection A of this section.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 690.2, as last amended by Section 7, Chapter 339, O.S.L. 2000 (62 O.S. Supp. 2000, Section 690.2), is amended to read as follows:

Section 690.2 For the purposes of Section 690.1 et seq. of this title:

1. "Authority" means an "Enterprise District Management Authority" created pursuant to Section 690.7 of this title;

2. "Building" means a structure consisting of a foundation, walls, roof and other parts necessary to its occupation; provided however, it shall not include a structure intended to be used for residence purposes;

3. "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, corporation, limited liability company or other legally constituted business entity;

4. "Enterprise district" means at least three but not more than six contiguous enterprise zones formed for the purpose of issuing general obligation bonds;

5. "Enterprise zone" means:

a. a county which:

(1) has experienced a decrease in population during the ten-year period preceding the date as of which an establishment either enters into a commitment to locate or announces a plan to locate within an enterprise zone or expands activity within an existing enterprise zone as determined by the Oklahoma Department of Commerce, or

(2) has been determined to rank in the lowest one-third (1/3) of all counties, which for purposes

of this division shall be computed as the lowest twenty-five (25) counties, for per capita personal income as measured by the Bureau of Economic Analysis for the Oklahoma region for the calendar year preceding the beginning of the fiscal year for which an application is made pursuant to Section 690.3 of this title,

b. an area within or contiguous to the corporate limits of any city or town of this state which the Oklahoma Department of Commerce determines, upon application, as an area of economic distress. For purposes of this subparagraph, an area within or contiguous to the corporate limits of a city or town may be determined to be an area of economic distress if it consists of one or more census tracts located within a city or town or contiguous to a city or town. The area as defined by this subparagraph must:

- (1) contain a population of persons equal to or greater than thirty percent (30%) of the total population the household income for whom is equal to or less than the poverty level as measured by the U.S. Census Bureau for the Oklahoma region for the most recent year for which data is available prior to the date an application is made pursuant to Section 690.3 of this title, or
- (2) contain a population of persons the per capita gross income for whom is ~~twenty percent (20%)~~ fifteen percent (15%) or more below the state per capita income,

c. an area designated as a federal enterprise community as provided by Section 690.3 of this title, or

d. any enterprise zone designated by the Oklahoma Department of Commerce prior to July 1, 2000;

6. "Equipment" means machinery necessary to the construction or manufacture of products for resale;

7. "Expand" means to make expenditures to add land, buildings, machinery, equipment or other materials, except inventory, to a facility that equal at least ten percent (10%) of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation;

8. "Facility" means an enterprise's place of business in an enterprise zone, including land, buildings, machinery, equipment and other materials, except inventory used in business. Except as provided by subsection B of Section 11 of this act, "facility" does not include an establishment used primarily for making retail sales;

9. "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five (35) hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment;

10. "New employee" means a full-time employee first employed by an enterprise at a facility after the designation of an enterprise zone;

11. "Position" means the position of one full-time employee performing a particular set of tasks and duties;

12. "Priority Enterprise Zones" means enterprise zones which are selected to receive additional resources or programs after meeting the criteria specified in this act;

13. "Project" means any undertaking by an enterprise to establish a facility or to improve a facility by expansion, in an enterprise zone or enterprise district;

14. "Responsible tenant" means any person, partnership, firm, company or corporation whether organized for profit or not deemed by the Authority, after proper investigation, to be financially

responsible to assume all rental and all other obligations prescribed by the Authority in the leasing of any building or equipment on which the Authority has a loan outstanding; and

15. "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty percent (50%) of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

SECTION 4. AMENDATORY Section 4, Chapter 193, O.S.L. 1996, as last amended by Section 2, Chapter 369, O.S.L. 1999 (62 O.S. Supp. 2000, Section 2004), is amended to read as follows:

Section 2004. The monies appropriated to the Rural Economic Action Plan Fund shall be subject to all of the requirements of Sections 2006 through 2013 of this title. There shall be deposited into each of the accounts provided by Section 2006 of this title the sum of one-tenth (1/10) of the amount appropriated to the Rural Economic Action Plan Fund with the exception of one account which shall be divided equally into two subaccounts. One of the two subaccounts shall be available to one and only one of the entities described by subsection B of Section 2007 of this title for distribution to cities or towns within the respective jurisdiction of the entity ~~if the population of such city or town does not exceed seven thousand (7,000) persons according to the latest Federal Decennial Census~~ or for the benefit of an unincorporated area. However, funds may also be expended for cities or towns with a population below seven thousand (7,000) persons based upon the current population estimate according to the U.S. Census Bureau. Funds may be expended for those cities and towns until the next Federal Decennial Census subsequent to the passage of this act.

SECTION 5. AMENDATORY Section 6, Chapter 193, O.S.L. 1996, as last amended by Section 3, Chapter 369, O.S.L. 1999 (62 O.S. Supp. 2000, Section 2006), is amended to read as follows:

Section 2006. A. There is hereby established a fund within the State Treasury to be known as the Rural Economic Action Plan Fund. The fund shall be a continuing fund not subject to fiscal year limitations. Within the Rural Economic Action Plan Fund there shall be established ten separate accounts into which shall be deposited such funds as may be provided by law.

B. One of nine accounts shall be available to each entity described in subsection A of Section 2007 of this title.

C. One account shall be divided equally into two subaccounts. One of the two subaccounts shall be available to each of the entities described by subsection B of Section 2007 of this title for distribution to cities or towns within the respective jurisdiction of the entity ~~if the population of such city or town does not exceed seven thousand (7,000) persons according to the latest Federal Decennial Census~~ or for the benefit of an unincorporated area. However, funds may also be expended for cities or towns with a population below seven thousand (7,000) persons based upon the current population estimate according to the U.S. Census Bureau. Funds may be expended for those cities and towns until the next Federal Decennial Census subsequent to the passage of this act.

D. No funds deposited into one account or subaccount shall be transferred to any other account. No entity may access any more than one account per fiscal year and the total expenditure from any one account for each fiscal year may not exceed the amount of funds available to each account as may be provided by law.

SECTION 6. AMENDATORY Section 7, Chapter 193, O.S.L. 1996, as amended by Section 1, Chapter 236, O.S.L. 1997 (62 O.S. Supp. 2000, Section 2007), is amended to read as follows:

Section 2007. A. A voluntary association of Oklahoma local governmental jurisdictions or another legal entity, including a public trust or a nonprofit corporation or other entity which performs functions for the benefit of or which exists for the

primary benefit of Oklahoma local governmental jurisdictions and which is not described in subsection B of this section, shall be eligible to obtain funding for rural economic development projects as authorized by subsection B of Section 2006 of this title.

B. A voluntary association of Oklahoma local governmental jurisdictions containing at least one municipality with a population in excess of three hundred fifty thousand (350,000) persons according to the latest Federal Decennial Census, shall be eligible to obtain funding as authorized by subsection C of Section 2006 of this title. An entity described by this subsection may expend funds available to the entity from the account created in subsection C of Section 2006 of this title for:

1. Promoting full employment in areas of high unemployment within the boundaries of any municipality within its jurisdiction;
2. Providing programs designed to assist persons with low incomes residing in areas of any municipality within its jurisdiction; or
3. The preservation and construction of critical infrastructure within the boundary of any municipality within its jurisdiction.

C. The entities described in subsection A ~~or B~~ of this section and which are eligible for any funds authorized by Section 2006 of this title shall be prohibited from making expenditures on behalf of or from making payment directly to any city or town with a population in excess of seven thousand (7,000) persons using any funds deposited to the Rural Economic Action Plan Fund created by Section 2006 of this title. For purposes of this subsection, funds may also be expended for cities or towns with a population below seven thousand (7,000) persons based upon the current population estimate according to the U.S. Census Bureau. Funds may be expended for those cities and towns until the next Federal Decennial Census results become final.

D. An organization described in subsection A or B of this section shall be authorized to make payment of funds obtained pursuant to Section 2006 of this title directly to a county if the funds are used for the benefit of an unincorporated area located within the county to which payment is made. After the county has provided a request to an organization described in subsection A or B of this section for funds to benefit an unincorporated area of the county, together with a statement that the county has conducted a review of the needs of unincorporated areas located within the county and that the funding requested is consistent with the evaluation of priorities for funds by the county, the funds requested may be paid to the county. Any funds paid to a county pursuant to the provisions of this subsection shall be expended by the county exclusively for the purpose identified in the request.

E. No county to which funds are paid pursuant to the provisions of subsection D of this section shall be liable to any person or other legal entity for damages arising out of any condition, act, omission or other cause alleged to have arisen as a result of a project upon which funds expended pursuant to the authority of subsection D of this section were paid to the county.

SECTION 7. AMENDATORY Section 8, Chapter 351, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.41), is amended to read as follows:

Section 2357.41 A. For tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 of ~~Title 68~~ this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment or incentive district created pursuant to the Local Development Act. The amount of the credit shall be one hundred percent (100%) of the

federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code.

B. If the credit allowed pursuant to 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 allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

C. All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building. A certified historic hotel building or historic newspaper plant building may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

D. The amount of the credit allowed but not used shall be freely transferable to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer

identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

E. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within three (3) years of taking the credit pursuant to this section; and

2. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that related to historic preservation, safety, or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

SECTION 8. AMENDATORY Section 3, Chapter 167, O.S.L. 1997, as last amended by Section 1, Chapter 241, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.62), is amended to read as follows:

Section 2357.62 A. For taxable years beginning after December 31, 1997, and before January 1, 2005, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the

Oklahoma Statutes for qualified investment in qualified small business capital companies.

B. The credit provided for in subsection A of this section shall be twenty percent (20%) of the cash amount invested in qualified small business capital companies and may only be claimed for a taxable year during which the qualified small business capital company invests funds in an Oklahoma small business venture and the credit shall be allowed for the amount of funds invested in an Oklahoma small business venture. If the tax credit exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) taxable years.

C. No taxpayer may claim the credit provided for in this section for investments in qualified small business capital companies made prior to January 1, 1998.

D. No taxpayer may claim the credit provided for in this section if the capital provided by a qualified small business capital company is used by an Oklahoma small business venture for the acquisition of any other legal entity.

E. No financial lending institution shall be eligible to claim the credit provided for in this section except with respect to amounts invested in a qualified small business capital company ~~in which the financial lending institution is a shareholder or partner.~~

F. No taxpayer may claim the credit authorized by this section for the same invested amount for which any credit is claimed pursuant to either Section 2357.73 or 2357.74 of this title.

SECTION 9. AMENDATORY Section 4, Chapter 167, O.S.L. 1997, as last amended by Section 2, Chapter 241, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.63), is amended to read as follows:

Section 2357.63 A. For taxable years beginning after December 31, 1997, and before January 1, 2005, there shall be allowed a

credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes for qualified investment made in Oklahoma small business ventures in conjunction with investment in such ventures made by a qualified small business capital company.

B. The credit provided for in this section shall be twenty percent (20%) of the cash amount of qualified investment made in Oklahoma small business ventures in conjunction with investment in such ventures made by a qualified small business capital company and shall be allowed for a taxable year during which the investment is made in an Oklahoma small business venture. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) taxable years. To qualify for the credit authorized by this section, an investment shall be:

1. Made by a shareholder or partner of a qualified small business capital company that has invested funds in an Oklahoma small business venture;

2. Invested in the purchase of equity or near-equity in an Oklahoma small business venture;

3. Made under the same terms and conditions as the investment made by the qualified small business capital company; and

4. Limited to the lesser of:

- a. two hundred percent (200%) of any investment by the taxpayer in the qualified small business capital company, or

- b. two hundred percent (200%) of the investment made by the qualified small business capital company in the Oklahoma small business venture.

C. No taxpayer may claim the credit provided for in this section for investment made prior to January 1, 1998.

D. No taxpayer may claim the credit authorized by this section for the same invested amount for which any credit is claimed pursuant to either Section 2357.73 or 2357.74 of this title.

SECTION 10. AMENDATORY Section 2, Chapter 339, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.72), is amended to read as follows:

Section 2357.72 As used in this act:

1. "Acquisition" means the use of capital by an Oklahoma rural small business venture within six (6) months after obtaining the capital to purchase fifty-one percent (51%) or more of the voting interest entitled to elect the governing board, or its equivalent, of any other legal entity, regardless of the legal form of the entity. As used in this act, "acquisition" does not mean the right to participate in the proceeds from sale of goods or services, whether denominated a royalty, royalty interest or otherwise, and does not mean the right to intellectual property, whether the rights arise from copyright, trademark or patent law;

2. "Capitalization" means a contractual commitment to provide funds with substantial economic penalties for breach of the commitment to provide such funds;

3. "Equity and near-equity security" means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a partnership, or subordinated debt that is convertible into, or entitles the holder to receive upon its exercise, common stock, preferred stock, royalty interest, or an interest in a partnership;

4. "Financial lending institution" means a bank, credit union, savings and loan, commercial finance company or other entity principally engaged in the extension of credit;

5. "Nonmetropolitan area" means an area which is not an "urbanized area" as defined by the United States Bureau of the Census. An urbanized area comprises one or more places ("central places") and the adjacent densely settled surrounding territory ("urban fringe") that together have a minimum of fifty thousand (50,000) persons. An urban fringe generally consists of contiguous territory having a density of at least one thousand (1,000) persons per square mile. An urban fringe also includes outlying territory of such density if it was connected to the core of the contiguous area by road and is within one and one-half road miles of that core, or within five (5) road miles of the core but separated by water or other undevelopable territory. Other territory with a population density of fewer than one thousand (1,000) people per square mile is included within an urban fringe if it eliminates an enclave or closes an indentation in the boundary of the urbanized area;

6. "Oklahoma rural small business venture" means a business, incorporated or unincorporated, which:

- a. has or will have, immediately after a loan or investment is made by a qualified rural small business capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,
- b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services,
- c. has its principal place of business within a nonmetropolitan area of the state and conducts the activity resulting in at least seventy-five percent (75%) of its gross annual revenue from a nonmetropolitan area of the state,
- d. except as otherwise provided by this subparagraph, is engaged in a lawful business activity under any Industry Number appearing under any Major Group Number

of Divisions A, C, D, E, F or I of the Standard Industrial Classification Manual, 1987 revision with the following exceptions:

- (1) Major Group 1 of Division A, and
- (2) Major Group 2 of Division A, and

e. qualifies as a small business as defined by the federal Small Business Administration;

7. "Qualified investment" means "equity" and "near-equity" as defined in paragraph 3 of this section or "subordinated debt" as defined in paragraph 9 of this section;

8. "Qualified rural small business capital company" means a C corporation or a subchapter S corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma, limited liability company or a registered business partnership with a certificate of partnership filed as required by law, which meets the following criteria:

- a. the corporation, limited liability company or partnership is organized to provide the direct investment of equity and near-equity funds to ~~rural small business entities~~ companies within this state,
- b. the principal place of business of the corporation, limited liability company or partnership is located within this state,
- c. the capitalization of the corporation, limited liability company or partnership is not less than Five Hundred Thousand Dollars (\$500,000.00), and
- d. the corporation, limited liability company or partnership has investment of not more than twenty-five percent (25%) of its funds in any one company;
and

9. "Subordinated debt" means indebtedness that is subordinated to all other indebtedness of the issuer that has been issued or is to be issued to a financial lending institution.

SECTION 11. AMENDATORY Section 3, Chapter 339, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.73), is amended to read as follows:

Section 2357.73 A. For taxable years beginning after December 31, 2000, and before January 1, 2008, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of Title 68 of the Oklahoma Statutes this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes for qualified investment in qualified rural small business capital companies.

B. The credit provided for in subsection A of this section shall be thirty percent (30%) of the cash amount invested in qualified rural small business capital companies and may only be claimed for a taxable year during which the qualified rural small business capital company invests funds in an Oklahoma rural small business venture and the credit shall be allowed for the amount of funds invested in an Oklahoma rural small business venture. If the tax credit exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) taxable years.

C. No taxpayer may claim the credit provided for in this section for investments in qualified rural small business capital companies made prior to January 1, 2001.

D. No taxpayer may claim the credit provided for in this section if the capital provided by a qualified rural small business capital company is used by an Oklahoma rural small business venture for the acquisition of any other legal entity.

E. No financial lending institution shall be eligible to claim the credit provided for in this section except with respect to amounts invested in a qualified rural small business capital company ~~in which the financial lending institution is a shareholder or partner.~~

F. No taxpayer may claim the credit authorized by this section for the same invested amount for which any credit is claimed pursuant to either Section 2357.62 or 2357.63 of this title.

SECTION 12. AMENDATORY Section 4, Chapter 339, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2357.74), is amended to read as follows:

Section 2357.74 A. For taxable years beginning after December 31, 2000, and before January 1, 2008, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of Title 68 of the Oklahoma Statutes this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes for qualified investment made in Oklahoma rural small business ventures in conjunction with investment in such ventures made by a qualified rural small business capital company.

B. The credit provided for in this section shall be thirty percent (30%) of the cash amount of qualified investment made in Oklahoma rural small business ventures in conjunction with investment in such ventures made by a qualified rural small business capital company and shall be allowed for a taxable year during which the investment is made in an Oklahoma rural small business venture. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed ten (10) taxable years. To qualify for the credit authorized by this section, an investment shall be:

1. Made by a shareholder or partner of a qualified rural small business capital company that has invested funds in an Oklahoma rural small business venture;

2. Invested in the purchase of equity or near-equity in an Oklahoma rural small business venture;

3. Made under the same terms and conditions as the investment made by the qualified rural small business capital company; and

4. Limited to the lesser of:

a. two hundred percent (200%) of any investment by the taxpayer in the qualified rural small business capital company, or

b. two hundred percent (200%) of the investment made by the qualified rural small business capital company in the Oklahoma rural small business venture.

C. No taxpayer may claim the credit provided for in this section for investment made prior to January 1, 2001.

D. No taxpayer may claim the credit authorized by this section for the same invested amount for which any credit is claimed pursuant to either Section 2357.62 or 2357.63 of this title.

SECTION 13. AMENDATORY Section 1, Chapter 220, O.S.L. 1995 (74 O.S. Supp. 2000, Section 317.1), is amended to read as follows:

Section 317.1 A. The following bed and breakfast establishments shall be exempt from standards adopted by the State Fire Marshal Commission, including but not limited to standards published by the National Fire Protection Association, the Building Officials and Code Administrators (BOCA) National Building Code and the Life Safety Code, as it relates to sprinkler system and exit requirements only:

1. Bed and breakfast establishments which are open for business prior to ~~the effective date of this act~~ July 1, 1995; and

2. Bed and breakfast establishments which open for business on or after ~~the effective date of this act~~ July 1, 1995, and which provide sleeping accommodations of four rooms or less in each separate structure.

If such bed and breakfast establishment has retail space, then, in order to receive the exemption pursuant to this subsection, such retail space shall not exceed four hundred (400) square feet in each separate structure.

B. Municipalities may enact ordinances for bed and breakfast establishments which are the same as or different from the rules adopted by the State Fire Marshal Commission relating to sprinkler system and exit requirements only.

C. For purposes of this section, "bed and breakfast establishment" means a private house where sleeping accommodations are available for transient guests for pay, maximum guest occupancy in general not to exceed the total of two guests per room, and where breakfast only is included in the rent.

SECTION 14. REPEALER Section 3, Chapter 241, O.S.L. 2000, is hereby repealed.

SECTION 15. Sections 1 and 2 of this act shall become effective November 1, 2001.

SECTION 16. Sections 4, 5, 6 and 13 of this act shall become effective July 1, 2001.

SECTION 17. Section 7 of this act shall become effective January 1, 2002.

SECTION 18. 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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