STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 534 By: Fisher of the Senate

and

Turner and Pope (Clay) of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation and housing; amending Section 8, Chapter 351, O.S.L. 2000, and 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 255, O.S.L. 2000 (68 O.S. Supp. 2000, Sections 2357.41 and 2817), which relate to income tax credits and ad valorem taxes; modifying expenditures for which certain income tax credit allowed; requiring county assessor to take into account extent to which certain limitations on use affect market value of certain properties; amending Section 19, Chapter 337, O.S.L. 1995, as amended by Section 2, Chapter 163, O.S.L. 1998 (74 O.S. Supp. 2000, Section 2901.2), which relates to the Oklahoma Housing Trust Fund; allowing certain expenditures from fund; requiring Oklahoma Housing Finance Agency to develop program and promulgate rules pursuant thereto; defining term; providing an effective date; and declaring an emergency.

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

SECTION 1. 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 of the Oklahoma Statutes~~ <u>this title or Section 624 or Section 628 of Title 36 of the Oklahoma Statutes</u> for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment <u>or incentive</u> 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 2. AMENDATORY 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 255, O.S.L. 2000 (68 O.S. Supp. 2000, Section 2817), is amended to read as follows:

Section 2817. A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or

2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

<u>In assessing the value of real property that is rented or leased under a housing program administered or regulated by a governmental</u>

entity to a low-income individual or family meeting income eligibility standards established by the governmental entity pursuant to the program or that is rented or leased under a governmental contract for affordable housing limiting the amount that the individual or family may be required to pay for the rental or lease of the property, the county assessor shall take into account the extent to which limitations imposed pursuant to such a program or contract reduce the market value of the property.

The Ad Valorem Division of the Oklahoma Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Natural Resources Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the Tax Commission based on the sum of the

average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

However, in calculating the use value of buffer strips as defined in Section ~~2~~ 2817.2 of this ~~act~~ title, primary consideration shall be based on income production from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section ~~2~~ 2817.2 of this ~~act~~ title.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and

personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and

b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or

2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the

property is not commensurate with and would not justify the amount of the sales consideration of the property;

then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

F. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

G. Where any real property is zoned for a use by a proper zoning authority, and the use of the property has not been changed, the use and not zoning shall determine assessment. Any reassessment required shall be effective January 1 following the change in use. Taxable real property need not be listed annually with the county assessor.

H. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any building is constructed upon land after January 1 of any year, the value of the building shall be added by the county assessor to the assessed valuation of the land upon which the building is constructed at the fair cash value thereof for the next ensuing year. However, the building shall be deemed to have a value for assessment purposes of the fair cash value of the materials used in such building only, until the building and the land on which the building is located shall have been conveyed to a bona fide purchaser or shall have been occupied or used for any purpose other than as a sales office by the

owner thereof, or shall have been leased, whichever event shall first occur. The county assessor shall continue to assess the building based upon the fair market value of the materials used therein until the building and land upon which the building is located shall have been conveyed to a bona fide purchaser or is occupied or used for any purpose other than as a sales office by the owner thereof, or is leased, whichever event shall first occur. However, the fair cash value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the total purchase price paid by the developer of the addition or subdivision for the land comprising the platted addition or subdivision divided by the number of lots contained in the addition or subdivision until the lot with building or buildings located thereon shall have been conveyed to a bona fide purchaser or shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized by the county assessor in the valuation of any real property for assessment purposes.

I. In case improvements on land or personal property located therein or thereon are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, after January 1 and before the adjournment of the county board of equalization during any year, the county board of equalization, in cooperation with the county assessor, shall determine the amount of damage, and shall make an order directing the assessment of the

property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause.

SECTION 3. AMENDATORY Section 19, Chapter 337, O.S.L. 1995, as amended by Section 2, Chapter 163, O.S.L. 1998 (74 O.S. Supp. 2000, Section 2901.2), is amended to read as follows:

Section 2901.2 There is hereby created the "Oklahoma Housing Trust Fund" to be administered by the Oklahoma Housing Finance Agency. The fund shall be a continuing fund, not subject to fiscal year limitations, and may consist of private monies and federal and state funds. A minimum of sixty-five percent (65%), but not to exceed seventy-five percent (75%) of all annual expenditures from the Oklahoma Housing Trust Fund shall be made for the purpose of providing affordable housing in counties with a population of less than four hundred ninety thousand (490,000) according to the latest federal decennial census. Expenditures from the fund may be made to provide grants or loans to developers of eligible residences or to developers of single-family or multi-family residences located in underserved areas on lots upon which other buildings previously stood and which are occupied as the primary residences of the owners or which are rented. The Oklahoma Housing Finance Agency shall develop a program and promulgate rules to provide grants and loans to such developers as provided in this section. As used in this section:

1. “Developer” means a person, firm or corporation who markets, builds or sells eligible residences;

2. “Eligible residence” means a newly constructed single-family home located in an underserved area on a lot upon which another building previously stood; and

3. “Underserved area” means:

a. a municipality in which fewer than fifty housing permits for new single-family homes were issued for the preceding calendar year and in which the average selling price of a new single-family home during the preceding calendar year was less than One Hundred Thousand Dollars ($100,000.00), or

b. an opportunity zone as defined in paragraph 2 of subsection G of Section 3604 of Title 68 of the Oklahoma Statutes or an urban renewal area as defined in paragraph 10 of Section 38-101 of Title 11 of the Oklahoma Statutes.

SECTION 4. This act shall become effective July 1, 2001.

SECTION 5. 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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