

ENROLLED SENATE
BILL NO. 231

By: Reynolds of the Senate

and

Calvey of the House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 3105, as amended by Section 1, Chapter 183, O.S.L. 2002 and 2357.7 (68 O.S. Supp. 2002, Section 3105), which relate to tax sales and tax credits; modifying circumstances under which county treasurer cannot conduct tax sale of property; defining term; extending life of certain tax credit; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 3105, as amended by Section 1, Chapter 183, O.S.L. 2002 (68 O.S. Supp. 2002, Section 3105), is amended to read as follows:

Section 3105. A. The county treasurer shall in all cases, except those provided for in subsection B of this section, where taxes are a lien upon real property and are unpaid on the first day of April of any year proceed, as hereinafter provided, to advertise and sell such real estate for such taxes, special assessments and costs, and shall not be bound before so doing to proceed to collect by sale all personal taxes on personal property which are by ~~this Code~~ law made a lien on realty, but shall include such personal tax with that due on the realty, and shall sell the realty for all of ~~said~~ the taxes and special assessments.

B. In counties with a population in excess of one hundred thousand (100,000) persons according to the most recent federal decennial census, the county treasurer shall not conduct a tax sale of such real estate where taxes are a lien upon real property if the following conditions are met:

1. The real property contains a single-family residential dwelling;

2. The individual residing on the property is sixty-five (65) years of age or older or has been classified as totally disabled, as defined in subsection C of this section, and such individual owes the taxes due on the real property;

3. The real property is not currently being used as rental property;

4. The individual living on the property has an annual income that does not exceed the HHS Poverty Guidelines as established each year by the United States Department of Health and Human Services that are published in the Federal Register and in effect at the time that the proposed tax sale is to take place; and

5. The fair market value of the real property as reflected on the tax rolls in the office of the county assessor does not exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00).

C. As used in this section, a person who is "totally disabled" means a person who is unable to engage in any substantial gainful activity by reason of a medically determined physical or mental impairment which can be expected to last for a continuous period of twelve (12) months or more. Proof of disability may be established by certification by an agency of state government, an insurance company, or as may be required by the county treasurer. Eligibility to receive disability benefits pursuant to a total disability under the Federal Social Security Act shall constitute proof of disability for purposes of this section.

D. It shall be the duty of the individual owning property subject to the provisions of subsection B of this section to make application to the county treasurer for an exemption from a tax sale no later than sixty (60) days prior to the date the property is scheduled to be sold. It shall also be the duty of the individual to provide evidence to the county treasurer that the individual meets the financial requirements outlined in paragraph 4 of subsection B and all other requirements of this section to qualify for the exemption. Any individual claiming the exemption provided in this section shall establish eligibility for the exemption each year the exemption is claimed.

~~D.~~ E. Taxes, interest and penalties will continue to accrue while the exemption is claimed. The exemption from sale of property described in this section shall no longer be applicable and the county treasurer shall proceed with the sale of such real estate if any of the conditions prescribed in this section are no longer met.

~~E.~~ F. Every notice of tax sale or tax resale shall contain language approved by the Office of the State Auditor and Inspector informing the taxpayer of the provisions of this section.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.7, is amended to read as follows:

Section 2357.7 A. For taxable years beginning after December 31, 1986, and before January 1, ~~2004~~ 2009, there shall be allowed a credit against the tax imposed by Section 2355 of this title or Section 624 of Title 36 of the Oklahoma Statutes for investments in qualified venture capital companies whose purpose is to establish or expand the development of business and industry within Oklahoma. Provided, tax credits against liabilities imposed pursuant to Section 624 of Title 36 of the Oklahoma Statutes shall be limited to the amount that would otherwise be collected and allocated to the General Revenue Fund of the State Treasury.

B. For purposes of this section:

1. "Qualified venture capital company" means a C corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma or a registered business partnership with a certificate of partnership filed as required by law if such corporation or partnership is organized to provide the direct investment of debt and equity funds to companies within this state, with its principal place of business located within this state and which meets the following criteria:

- a. capitalization of not less than Five Million Dollars (\$5,000,000.00),
- b. having a purpose and objective of investing at least a portion, as specified herein, of its capitalization in Oklahoma business ventures. Such portion shall be at least fifty-five percent (55%) for capitalization occurring before January 1, 1999, and at least seventy-five percent (75%) for capitalization occurring on and after January 1, 1999. Investment capital received by such venture capital company shall be invested pursuant to said objective within five (5) years after receipt of such capital. Provided, of the portion of capitalization required to be invested in Oklahoma business ventures, as specified herein, ten percent (10%) of capitalization may be reserved for additional investment, within ten (10) years after receipt of capital, in portfolio companies which are Oklahoma business ventures. The temporary investment of funds by a qualified venture capital company in obligations of the United States, state and municipal bonds, bank certificates of deposit, or money market securities pending investment in Oklahoma business ventures is hereby authorized, and
- c. investment of not more than ten percent (10%) of its funds in any one company;

2. "Oklahoma 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 venture 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, and
- c. is not engaged in oil and gas exploration, real estate development, real estate sales, retail sales of food or clothing, farming, ranching, banking, or lending or investing funds in other businesses. Provided, however, businesses which provide or intend to provide

goods or services, including, but not limited to, goods or services involving new technology, equipment, or techniques to such businesses listed in this subparagraph, and investments in the development of tourism facilities in the form of amusement parks, entertainment parks, theme parks, golf courses, or museums shall not be subject to said prohibition;

3. "Direct investment" means the purchase of securities of a private company, or securities of a public company if the securities constitute a new issue of a public company and such public company had previous year sales of less than Ten Million Dollars (\$10,000,000.00); and

4. "Debt and equity funds" means investments in debt securities; including unsecured, undersecured, subordinated or convertible loans or debt securities; and/or equity securities, including common and preferred stock, royalty rights, limited partnership interest, and any other securities or rights that evidence ownership in businesses.

C. The credit provided for in subsection A of this section shall be twenty percent (20%) of the cash amount invested in qualified venture capital companies. The Oklahoma Capital Investment Board shall have the authority to certify an entity as a qualified venture capital company and to certify an investment to be a qualifying Oklahoma business venture for purposes of complying with subsection B of this section. Such certification shall be binding on the Oklahoma Tax Commission. Such certification shall not be mandatory but may be requested by any entity that desires to be certified. A reasonable certification fee may be charged by the Oklahoma Capital Investment Board for this service. 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 as a credit against subsequent tax liability for a period not to exceed three (3) years. No investor in a venture capital company organized after July 1, 1992, may claim tax credits under the provisions of this section.

D. No taxpayer may claim the credit provided for in subsection A of this section for investments in qualified venture capital companies made prior to January 1, 1987.

E. No investor whose capital is guaranteed by the Oklahoma Capital Investment Board may claim or transfer the credit provided for in subsection A of this section for investments in such guaranteed portfolio.

F. The credit provided for in subsection A of this section, to the extent not previously utilized, shall be freely transferable to and by subsequent transferees for a period of three (3) years from the date of investment.

SECTION 3. This act shall become effective November 1, 2003.

Passed the Senate the 29th day of April, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 8th day of April, 2003.

Presiding Officer of the House
of Representatives