

EHB 1085

THE STATE SENATE
Thursday, March 27, 2003

ENGROSSED

House Bill No. 1085

ENGROSSED HOUSE BILL NO. 1085 - By: BONNY of the House and GUMM of the Senate.

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 2357.41, which relates to credits against state income tax; modifying applicability 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 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 and Section 2370 of 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

1 on the income of the taxpayer, the amount of the credit allowed but
2 not used in any taxable year may be carried forward as a credit
3 against subsequent income tax liability for a period not exceeding
4 ten (10) years following the qualified expenditures.

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

15 D. The amount of the credit allowed but not used shall be
16 freely transferable to subsequent transferees at any time during the
17 five (5) years following the year of qualification. Any person to
18 whom or to which a tax credit is transferred shall have only such
19 rights to claim and use the credit under the terms that would have
20 applied to the entity by whom or by which the tax credit was
21 transferred. The provisions of this subsection shall not limit the
22 ability of a tax credit transferee to reduce the tax liability of
23 the transferee regardless of the actual tax liability of the tax

1 credit transferor for the relevant taxable period. The transferor
2 originally allowed the credit and the subsequent transferee shall
3 jointly file a copy of the written credit transfer agreement with
4 the Oklahoma Tax Commission within thirty (30) days of the transfer.
5 The written agreement shall contain the name, address and taxpayer
6 identification number of the parties to the transfer, the amount of
7 credit being transferred, the year the credit was originally allowed
8 to the transferor and the tax year or years for which the credit may
9 be claimed. The Tax Commission may promulgate rules to permit
10 verification of the validity and timeliness of a tax credit claimed
11 upon a tax return pursuant to this subsection but shall not
12 promulgate any rules which unduly restrict or hinder the transfers
13 of such tax credit.

14 E. As used in this section:

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

19 2. "Qualified rehabilitation expenditures" means capital
20 expenditures that qualify for the federal rehabilitation credit
21 provided in Section 47 of Title 26 of the United States Code and
22 that were paid after December 31, 2000. Qualified rehabilitation
23 expenditures do not include capital expenditures for nonhistoric

1 additions except an addition that is required by state or federal
2 regulations that related to historic preservation, safety, or
3 accessibility. In addition, qualified rehabilitation expenditures
4 do not include expenditures related to the cost of acquisition of
5 the property.

6 SECTION 2. This act shall become effective November 1, 2003.

7 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-25-03 - DO PASS.