

SECOND ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1693

By: Fisher of the Senate

and

Carey of the House

( revenue and taxation - Small Business Capital  
Formation Incentive Act and the Rural Venture  
Capital Formation Incentive Act - codification -  
effective date )

AUTHORS: Remove Carey as principal House author and substitute Dank  
as principal House author and add the following House  
Coauthors: Adkins, Terrill and Nance

AUTHOR: Add the following Senate Coauthor: Mazzei

AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

"An Act relating to revenue and taxation; amending 68  
O.S. 2001, Sections 2357.62, as last amended by  
Section 3, Chapter 299, O.S.L. 2005 and 2357.63, as  
last amended by Section 4, Chapter 299, O.S.L. 2005  
(68 O.S. Supp. 2005, Sections 2357.62 and 2357.63),  
which relate to the Small Business Capital Formation  
Incentive Act; imposing restriction on claim of  
credits based upon investment occurring on or after  
effective date of enactment and prior to specified  
date; amending 68 O.S. 2001, Sections 2357.73, as  
last amended by Section 5, Chapter 299, O.S.L. 2005  
and 2357.74, as last amended by Section 6, Chapter  
299, O.S.L. 2005 (68 O.S. Supp. 2005, Sections  
2357.73 and 2357.74), which relate to the Rural  
Venture Capital Formation Incentive Act; imposing  
restriction on claim of credits based upon  
investment occurring on or after effective date of  
enactment and prior to specified date; and declaring  
an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.62, as last amended by Section 3, Chapter 299, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.62), is amended to read as follows:

Section 2357.62 A. ~~For~~ Except as otherwise provided by subsection G of this section, for taxable years beginning after December 31, 1997, and before January 1, 2012, 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, or effective July 1, 2006, against the taxes imposed by ~~Sections~~ Section 1001, 1101 or 1102 of this title, for qualified investment in qualified small business capital companies. Credits shall be allowed based upon investments, occurring after May 31, 2004, using capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.61 of this title; however, no credits may be claimed based upon investments using capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.61 of this title prior to July 1, 2005.

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.

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.

G. No credits otherwise authorized by this section may be claimed for any investment of funds occurring on or after the effective date of this act, until June 1, 2007.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.63, as last amended by Section 4, Chapter 299, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.63), is amended to read as follows:

Section 2357.63 A. ~~For~~ Except as otherwise provided by subsection E of this section, for taxable years beginning after December 31, 1997, and before January 1, 2012, 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, or effective July 1, 2006, against the taxes imposed by Section 1001, 1101 or 1102 of this title, for qualified investment made in Oklahoma small business ventures in conjunction with investment in such ventures made by a qualified small business capital company. Credits shall be allowed based upon investments, occurring after May 31, 2004, using capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.61 of this title; however, no credits may be claimed for an investment in conjunction with capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.61 of this title prior to July 1, 2005.

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.

E. No credits otherwise authorized by this section may be claimed for any investment of funds occurring on or after the effective date of this act, until June 1, 2007.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 2357.73, as last amended by Section 5, Chapter 299, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.73), is amended to read as follows:

Section 2357.73 A. ~~For~~ Except as otherwise provided by subsection G of this section, 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 this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, or effective July 1, 2006, against the taxes imposed by Section 1001, 1101 or 1102 of this title, for qualified investment in qualified rural small business capital companies. Credits shall be allowed based upon investments, occurring after May 31, 2004, using capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.72 of this title; however, no credits may be claimed based upon investments using capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.72 of this title prior to July 1, 2005.

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.

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.

G. No credits otherwise authorized by this section may be claimed for any investment of funds occurring on or after the effective date of this act, until June 1, 2007.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2357.74, as last amended by Section 6, Chapter 299, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.74), is amended to read as follows:

Section 2357.74 A. ~~For~~ Except as otherwise provided by subsection E of this section, 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 this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, or effective July 1, 2006, against the taxes imposed by Section 1001, 1101 or 1102 of this title, 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. Credits shall be allowed based upon investments, occurring after May 31, 2004, using

capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.72 of this title; however, no credits may be claimed for an investment in conjunction with capitalization pursuant to subparagraph c of paragraph 2 of Section 2357.72 of this title prior to July 1, 2005.

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.

E. No credits otherwise authorized by this section may be claimed for any investment of funds occurring on or after the effective date of this act, until June 1, 2007.

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."

Passed the House of Representatives the 24th day of April, 2006.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2006.

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Presiding Officer of the Senate