

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3045

By: Hastings

COMMITTEE SUBSTITUTE

An Act relating to public finance; enacting the Oklahoma Substandard Housing Remediation Incentive Act; defining terms; authorizing certain tax credits for eligible costs of certain acquisition of real property in distressed areas; defining term; authorizing certain tax credits for eligible costs of new residence in certain census blocks; authorizing tax credits for certain rehabilitation; limiting availability of tax credits; prohibiting credits for structures in violation of certain requirements; imposing limitation with respect to total amount of credits; establishing certain set aside amounts; authorizing carryback and carryover; prohibiting use of credits in connection with other tax credits; providing exception; prescribing procedures for obtaining credits; providing for cooperation between Oklahoma Department of Commerce and certain governmental entities; authorizing administrative rules; requiring comprehensive program evaluation; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891 of Title 62, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Substandard Housing Remediation Incentive Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 892 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Department" means the Oklahoma Department of Commerce;

2. "Director" means the Director of the Oklahoma Department of Commerce;

3. "Distressed community" means either an Oklahoma municipality within a metropolitan statistical area which has a median household income of under seventy percent (70%) of the median household income for the metropolitan statistical area, according to the last Federal Decennial Census, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred (2,500), and each block group having a median household income of under seventy percent (70%) of the median household income for the metropolitan area in Oklahoma, according to the last Federal Decennial Census. In addition, the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent (70%) of the median household income for the nonmetropolitan areas in Oklahoma according to the last Federal Decennial Census or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred (2,500) each block group having a median household income of under seventy percent (70%) of the median household income for the nonmetropolitan areas of Oklahoma, according to the last Federal Decennial Census. In metropolitan statistical areas, the definition shall include areas that were designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1, 2006;

4. "Eligible costs for a new residence" means expenses incurred for property acquisition, development, site preparation other than demolition, surveys, architectural and engineering services and construction and all other necessary and incidental expenses incurred for constructing a new market-rate residence, which is or will be owner-occupied, which is not replacing a national-register-

listed or local historic structure; except that costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;

5. "Eligible costs for rehabilitation" means expenses incurred for the renovation or rehabilitation of an existing residence including site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration, replacements and alterations; except that costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;

6. "Eligible residence" means a single-family residence forty (40) years of age or older, located in this state and not within a distressed community as defined by paragraph 3 of this section, which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is either located within a United States census block group which, if in a metropolitan statistical area, has a median household income of less than ninety percent (90%), but greater than or equal to seventy percent (70%), of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group in a nonmetropolitan area, has a median household income of less than ninety percent (90%), but greater than or equal to seventy percent (70%), of the median household income for the nonmetropolitan areas in the state;

7. "Flood plain" means any land or area susceptible to being inundated by water from any source or located in a one-hundred-year flood plain area determined by Federal Emergency Management Agency mapping as subject to flooding;

8. "New residence" means a residence constructed on land which if located within a distressed community has either been vacant for at least two (2) years or is or was occupied by a structure which has been condemned by the local entity in which the structure is located or which, if located outside of a distressed community but within a census block group as described in paragraph 6 or 10 of this section, either replaces a residence forty (40) years of age or older demolished for purposes of constructing a replacement residence, or which is constructed on vacant property which has been classified for not less than forty (40) continuous years as residential or utility, commercial, railroad or other real property; except that no new residence shall be constructed in a flood plain or on property used for agricultural purposes. In a distressed community, the term "new residence" shall include condominiums, owner-occupied units or other units intended to be owner-occupied in multiple-unit structures;

9. "Project" means new construction, rehabilitation or substantial rehabilitation of a residence that qualifies for a tax credit pursuant to this act;

10. "Qualifying residence" means a single-family residence, forty (40) years of age or older, located in this state which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is located in a metropolitan statistical area or nonmetropolitan statistical area within a United States census block group which has a median household income of less than seventy percent (70%) of the median household income for the metropolitan statistical area or nonmetropolitan area, respectively, or which is located within a distressed community. A qualifying residence shall include a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences which is located within a distressed community;

11. "Substantial rehabilitation" means rehabilitation the costs of which exceed fifty percent (50%) of either the purchase price or the cost basis of the structure immediately prior to rehabilitation; provided, that the structure is at least fifty (50) years old notwithstanding any provision of this act to the contrary;

12. "Tax liability" means the tax due pursuant to Sections 2355 and 2370 of Title 68 of the Oklahoma Statutes, other than withholding taxes; and

13. "Taxpayer" means any person, partnership, corporation, trust or limited liability company.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 893 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Any taxpayer who incurs eligible costs for a new residence located in a distressed community or within a census block group as described in paragraph 10 of Section 2 of this act, or for a multiple-unit condominium described in subsection B of this section, shall receive a tax credit equal to fifteen percent (15%) of such costs against the applicable tax liability. The tax credit shall not exceed Forty Thousand Dollars (\$40,000.00) per new residence in any ten-year period.

B. For the purposes of this section, a "multiple-unit condominium" is one that is intended to be owner-occupied, which is constructed on property subject to an industrial development contract and which lies within an area with a city zoning classification or urban redevelopment district and which is constructed in connection with the qualified rehabilitation of a structure more than ninety (90) years old eligible for the historic structures rehabilitation tax credit described in Section 2357.41 of Title 68 of the Oklahoma Statutes.

C. Any taxpayer who incurs eligible costs for a new residence located within a census block as described in paragraph 6 of Section

2 of this act shall receive a tax credit equal to fifteen percent (15%) of such costs against the applicable tax liability. The tax credit shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per new residence in any ten-year period.

D. Any taxpayer who is not performing substantial rehabilitation and who incurs eligible costs for rehabilitation of an eligible residence or a qualifying residence shall receive a tax credit equal to twenty-five percent (25%) of such costs against the applicable tax liability. The minimum eligible costs for rehabilitation of an eligible residence shall be Ten Thousand Dollars (\$10,000.00). The minimum eligible costs for rehabilitation of a qualifying residence shall be Five Thousand Dollars (\$5,000.00). The tax credit shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in any ten-year period.

E. Any taxpayer who incurs eligible costs for substantial rehabilitation of a qualifying residence shall receive a tax credit equal to thirty-five percent (35%) of such costs against the applicable tax liability. The minimum eligible costs for substantial rehabilitation of a qualifying residence shall be Ten Thousand Dollars (\$10,000.00). The tax credit shall not exceed Seventy Thousand Dollars (\$70,000.00) in any ten-year period.

F. A taxpayer shall be eligible to receive tax credits for new construction or rehabilitation pursuant to only one subsection of this section.

G. No tax credit shall be issued pursuant to this section for any structure which is in violation of any municipal or county property, maintenance or zoning code.

H. No tax credit shall be issued pursuant to this act for the construction or rehabilitation of rental property.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 894 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 2007, tax credits shall be allowed pursuant to Section 3 of this act in an amount not to exceed Sixteen Million Dollars (\$16,000,000.00) per year. Of this total amount of tax credits in any given year, Eight Million Dollars (\$8,000,000.00) shall be set aside for projects in areas described in paragraph 6 of Section 2 of this act and Eight Million Dollars (\$8,000,000.00) for projects in areas described in paragraph 10 of Section 2 of this act. The maximum tax credit for a project consisting of multiple-unit qualifying residences in a distressed community shall not exceed Three Million Dollars (\$3,000,000.00).

B. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in which the credit is first claimed may be carried back to any of the three (3) prior tax years of the taxpayer and carried forward to any of the five (5) subsequent tax years of the taxpayer. A certificate of tax credit issued to a taxpayer by the Department may be assigned, transferred, sold or otherwise conveyed. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the Department specifying the name and address of the new owner of the tax credit and the value of the credit.

C. The tax credits allowed pursuant to this act may not be claimed in addition to any other state tax credits, with the exception of the historic structures rehabilitation tax credit authorized pursuant to Section 2357.41 of Title 68 of the Oklahoma Statutes, which insofar as this act are concerned may be claimed only in conjunction with the tax credit allowed pursuant to subsection D of Section 3 of this act. In order for a taxpayer eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant to subsection D of Section 3 of this act, the taxpayer must comply with the requirements of Section 2357.41 of Title 68 of the Oklahoma Statutes, and in such

cases, the amount of the tax credit pursuant to subsection D of Section 3 of this act shall be limited to the lesser of twenty percent (20%) of the eligible costs of the taxpayer or Forty Thousand Dollars (\$40,000.00).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 895 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. To obtain any credit allowed pursuant to this act, a taxpayer shall submit to the Department, for preliminary approval, an application for tax credit. The Director shall, upon final approval of an application and presentation of acceptable proof of substantial completion of construction, issue the taxpayer a certificate of tax credit. The Director shall issue all credits allowed pursuant to this act in the order the applications are received. In the case of a taxpayer other than an owner-occupant, the Director shall not delay the issuance of a tax credit pursuant to this act until the sale of a residence at market rate for owner-occupancy. A taxpayer, other than an owner-occupant who receives a certificate of tax credit pursuant to this act shall, within thirty (30) days of the date of the sale of a residence, furnish to the Director satisfactory proof that such residence was sold at market rate for owner-occupancy. If the Director reasonably determines that a residence was not in good faith intended for long-term owner-occupancy, the Director may revoke any tax credits issued and seek recovery of any tax credits issued pursuant to this act.

B. The Department may cooperate with a municipality or a county in which a project is located to help identify the location of the project, the type and eligibility of the project, the estimated cost of the project and the completion date of the project.

C. The Department may promulgate such rules as are necessary to administer the provisions of this act. No rule or portion of a rule promulgated pursuant to the authority of this section shall become

effective unless it has been promulgated pursuant to the provisions of the Oklahoma Administrative Procedures Act.

D. The Department shall conduct annually a comprehensive program evaluation illustrating where the tax credits allowed pursuant to this act are being utilized, explaining the economic impact of such program and making recommendations on appropriate program modifications to ensure the success of the program.

SECTION 6. This act shall become effective November 1, 2006.

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