

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1681

By: Johnson

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 2357.62, as amended by Section 2, Chapter 508, O.S.L. 2004, 2357.63, as amended by Section 3, Chapter 508, O.S.L. 2004, 2357.73, as amended by Section 5, Chapter 508, O.S.L. 2004 and 2357.74, as amended by Section 6, Chapter 508, O.S.L. 2004 (68 O.S. Supp. 2004, Sections 2357.62, 2357.63, 2357.73 and 2357.74), which relate to the Small Business Capital Formation Incentive Act and the Rural Venture Capital Formation Incentive Act; modifying taxes for which credit may be claimed; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.62, as amended by Section 2, Chapter 508, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2357.62), is amended to read as follows:

Section 2357.62 A. 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 1001, 1101 and 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.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.63, as amended by Section 3, Chapter 508, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2357.63), is amended to read as follows:

Section 2357.63 A. 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.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 2357.73, as amended by Section 5, Chapter 508, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2357.73), is amended to read as follows:

Section 2357.73 A. 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.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2357.74, as amended by Section 6, Chapter 508, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2357.74), is amended to read as follows:

Section 2357.74 A. 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.

SECTION 5. This act shall become effective July 1, 2006.

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