

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1712

By: Calvey

AS INTRODUCED

An Act relating to tax credits available pursuant to Section 42 of the Internal Revenue Code of 1986; requiring Oklahoma Housing Finance Agency to provide certain notice; prescribing requirements for notice; requiring election prior to final allocation of tax credits; prescribing procedures for election; providing alternative method for approval of final allocation of tax credits; requiring reservation of certain amount of tax credits by Oklahoma Housing Finance Agency; prohibiting use of certain amount of tax credits in certain areas until full allocation of certain credits in other areas; imposing requirement with respect to certain tax-exempt bond proceeds; prohibiting applications for certain tax credits by certain entities for prescribed period; prohibiting applications for certain tax credits by certain persons or entities; prohibiting use of certain proceeds from sale of obligations for purposes related to income tax credit without approval as prescribed by law; amending 27 O.S. 2001, Section 16, which relates to eminent domain; defining term with respect to takings of certain property; 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 4201 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If low-income housing tax credits are proposed to be used for the construction or rehabilitation of a housing unit or housing development, the Oklahoma Housing Finance Agency shall require that notice of the proposed allocation of low-income housing tax credits by the Oklahoma Housing Finance Agency pursuant to its status as state housing credit administrator and pursuant to the qualified allocation plan required by Section 42 of the Internal Revenue Code of 1986, as amended, shall be given to the residents of the voting

precinct in which the proposed housing unit or housing development is or will be physically located and to the residents of each voting precinct adjacent or contiguous to such voting precinct. The notice required by this section shall be given by publication two times within a period of at least sixty (60) days prior to the date as of which the Oklahoma Housing Finance Agency could make a final decision regarding such allocation with respect to the affected housing unit or housing development in a newspaper of general circulation with the greatest circulation within the county or counties in which the unit or development will be or is located.

B. At least thirty (30) days prior to the final decision by the Oklahoma Housing Finance Agency to allocate low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, with respect to any proposed or existing housing unit or housing development, there shall be an election on the question of such allocation to be conducted by the State Election Board. The persons eligible to vote in such election shall be those persons to whom notice is required to be given pursuant to subsection A of this section. If the majority of those persons voting on the question approve the allocation, then the Oklahoma Housing Finance Agency may proceed with the allocation procedures as otherwise established by law, including the requirements of the administrative rules applicable to the allocation of low-income housing tax credits. If a majority of those persons eligible to vote on the question do not approve of the allocation of low-income housing tax credits to an existing or proposed housing unit or housing development, the Oklahoma Housing Finance Agency shall not allocate any low-income housing tax credits to such unit or development.

C. As an alternative to the approval required by subsection B of this section, no income tax credits shall be allocated by the Oklahoma Housing Finance Agency unless approval for allocation of

the credits is obtained from the following entities and in the following manner:

1. Two-thirds (2/3) of the governing body of any incorporated municipality in which the project is located; and
2. Two-thirds (2/3) of the governing body of any municipality, the boundary of which, measured at any point, is within three (3) miles of the boundary of the project site; or
3. Two-thirds (2/3) of the board of county commissioners if the project is located in an unincorporated area.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4202 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Seventy-five percent (75%) of income tax credits available pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, which are not to be used for rehabilitation of existing multifamily housing projects shall be reserved by the Oklahoma Housing Finance Agency for use in counties or municipalities located in a county having a population of less than two hundred thousand (200,000) persons according to the latest Federal Decennial Census or most recent population estimate.

B. No income tax credits available pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, shall be used for a project located in a county with a population of two hundred thousand (200,000) or more persons according to the latest Federal Decennial Census or most recent population estimate, until all of the credits reserved pursuant to subsection A of this section are fully allocated.

C. The provisions of subsections A and B of this section shall also be applicable to the amount of tax-exempt bond proceeds available for use in support of a multifamily housing project eligible for allocation of the income tax credits.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4203 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For a period of two (2) years from the date as of which any adverse action as described by this subsection is taken, no legal entity may make application for income tax credits otherwise available for allocation pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, if the entity has been responsible, directly or indirectly, for any adverse action by a federal agency responsible for administering such income tax credits or any federal agency with jurisdiction over the housing project to which such credits may have been allocated, including, but not limited to:

1. An investigation of the legal entity with respect to the use of tax credits allocated to such entity;

2. An investigation of a housing project supported by the allocation of income tax credits to such entity;

3. An investigation of the Oklahoma Housing Finance Agency with respect to income tax credits allocated to a housing project owned by or managed by such entity;

4. A financial audit of the legal entity or of the Oklahoma Housing Finance Agency with respect to income tax credits allocated to a housing project owned by or managed by such entity; or

5. Any other action based upon misuse or alleged misuse of the income tax credits or noncompliance with the requirements governing the use of such credits, whether pursuant to federal or state law.

B. For a period of two (2) years from the date as of which any adverse action as described by subsection A of this section is taken, no individual who is or has been an officer, partner, agent, including an attorney, employee or other representative of an entity as described by subsection A of this section shall make application as an individual or on behalf of any legal entity, regardless of the

capacity in which the individual may be acting upon behalf of the entity, for any credits otherwise allocable pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4204 of Title 68, unless there is created a duplication in numbering, reads as follows:

No proceeds from the sale of any obligation issued by a trust created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes shall be used to acquire or improve any housing units or developments that might be eligible for an allocation of low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, unless the allocation of such credits has first been approved pursuant to the provisions of Section 1 of this act by election of a majority of the affected residents voting on such question and by action of any relevant governing body.

SECTION 5. AMENDATORY 27 O.S. 2001, Section 16, is amended to read as follows:

Section 16. A. In every case wherein private property is taken or damaged for public use, the person whose property is taken or damaged shall be entitled to just compensation.

B. "Just compensation", as used in subsection A of this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking.

C. For purposes of property taken or damaged and that is subject to a state or federal project involving tax credits or

financed with proceeds from tax-exempt bonds, just compensation for that property shall be determined by the fair market value prior to any availability of tax credits as a result of the project and prior to availability of proceeds from tax-exempt bonds used to finance the project.

SECTION 6. This act shall become effective November 1, 2005.

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