

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3247

By: Lamons

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; creating a
8 tax credit for certain land donations; providing
9 percentage for calculation of credit; requiring land
10 be conveyed for certain restricted purposes;
11 requiring appraisal; limiting amount of credit;
12 providing for carryover; limiting claim of credit to
13 once annually; defining eligible conveyances;
14 requiring conveyance to certain entities; mandating
15 conveyance be in perpetuity; limiting
16 transferability; requiring application to Tax
17 Commission to receive credit; directing Tax
18 Commission to issue certain document upon approval;
19 providing for codification; and providing an
20 effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2357.105 of Title 68, unless
24 there is created a duplication in numbering, reads as follows:

A. For tax years beginning after January 31, 2008, there shall
be allowed as a credit against the tax imposed pursuant to Sections
2355 and 2370 of Title 68 of the Oklahoma Statutes an amount equal
to fifty percent (50%) of the fair market value of land or interest
in land that is conveyed for the purpose of open space, natural

1 resource or biodiversity conservation, agricultural preservation or
2 watershed or historic preservation as an unconditional donation in
3 perpetuity by the landowner or taxpayer to a public or private
4 conservation agency eligible to hold the land and interests therein
5 for conservation or preservation purposes. The fair market value of
6 donations made pursuant to this section shall be substantiated by a
7 "qualified appraisal" prepared by a "qualified appraiser", as those
8 terms are defined under applicable federal laws and regulation
9 governing charitable contributions.

10 B. The amount of the credit that may be claimed by a taxpayer
11 shall not exceed One Hundred Thousand Dollars (\$100,000.00) for a
12 conveyance made after January 1, 2009, and prior to January 1, 2011,
13 and shall not exceed Two Hundred Fifty Thousand Dollars
14 (\$250,000.00) for a conveyance made on or after January 1, 2011.

15 C. In no event shall the amount of the credit exceed the amount
16 of income tax liability of the claimant for the taxable year.

17 D. The credit authorized by this section shall not be used to
18 reduce the income tax liability of the taxpayer to less than zero
19 (0).

20 E. A portion of the credit that is unused in a taxable year may
21 be carried over for a maximum of twenty (20) consecutive taxable
22 years following the taxable year in which the credit originated
23 until fully expended.

24 F. A taxpayer may claim only one tax credit per taxable year.

1 G. In order to qualify under this section donations shall
2 include the conveyance in perpetuity of a fee interest in real
3 property or a less-than-fee interest in real property, such as a
4 conservation restriction, preservation restriction, agricultural
5 preservation restriction or watershed preservation restriction,
6 provided that the less-than-fee interest qualifies as a charitable
7 contribution deduction under Section 170(h) of the Internal Revenue
8 Code. Dedications of land for open space for the purpose of
9 fulfilling density requirements to obtain subdivision or building
10 permits shall not be considered as qualified donations pursuant to
11 this section.

12 H. The only donations that shall be eligible for the tax credit
13 provided by this section are donations made to the State of
14 Oklahoma, a political subdivision thereof or a charitable
15 organization that is exempt from taxation pursuant to the provisions
16 of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.,
17 Section 501(c)(3).

18 I. The use protection of the lands, or interests therein, for
19 open space, natural area protection, biodiversity habitat
20 conservation, land preservation, agricultural preservation, historic
21 preservation or similar use or purpose of the property shall be
22 assured in perpetuity.

23 J. The credit provided by this section may be transferred once.
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1 K. In order to receive the tax credit authorized pursuant to
2 this section, a taxpayer shall apply to the Oklahoma Tax Commission
3 on forms and in the manner prescribed by the Tax Commission. Once
4 the Tax Commission is satisfied that the requirements of this
5 section have been complied with, the Tax Commission shall issue the
6 applicant a certificate or document evidencing the credit in a form
7 the Tax Commission prescribes. The document shall be numbered for
8 identification and declare the date of issuance and the amount of
9 the tax credit allowed for the qualified donation made pursuant to
10 this section.

11 SECTION 2. This act shall become effective January 1, 2009.

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