

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2093

By: Coffee

4  
5 AS INTRODUCED

6 An Act relating to revenue and taxation; amending 68  
7 O.S. 2001, Section 2357.41, as last amended by  
8 Section 15, Chapter 272, O.S.L. 2006 (68 O.S. Supp.  
9 2007, Section 2357.41), which relates to income tax  
10 credits for qualified rehabilitation expenditures;  
11 expanding certain requirement to file agreement with  
12 Oklahoma Tax Commission; providing that certain  
13 transfer is perfected under specified circumstances;  
14 expanding required contents of certain written  
15 agreement; requiring Oklahoma Tax Commission to  
16 develop specified system; limiting the liability for  
17 disallowed credit under specified circumstances; and  
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.41, as  
21 last amended by Section 15, Chapter 272, O.S.L. 2006 (68 O.S. Supp.  
22 2007, Section 2357.41), is amended to read as follows:

23 Section 2357.41 A. For tax years beginning after December 31,  
24 2000, there shall be allowed a credit against the tax imposed by  
Sections 2355 and 2370 of this title or that portion of the tax  
imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes  
that would otherwise have been apportioned to the General Revenue  
Fund for qualified rehabilitation expenditures incurred in

1 connection with any certified historic hotel or historic newspaper  
2 plant building located in an increment or incentive district created  
3 pursuant to the Local Development Act or for qualified  
4 rehabilitation expenditures incurred after January 1, 2006, in  
5 connection with any certified historic structure.

6 B. The amount of the credit shall be one hundred percent (100%)  
7 of the federal rehabilitation credit provided for in Section 47 of  
8 Title 26 of the United States Code. The credit authorized by this  
9 section may be claimed at any time after the relevant local  
10 governmental body responsible for doing so issues a certificate of  
11 occupancy or other document that is a precondition for the  
12 applicable use of the building or structure that is the basis upon  
13 which the credit authorized by this section is claimed.

14 C. All requirements with respect to qualification for the  
15 credit authorized by Section 47 of Title 26 of the United States  
16 Code shall be applicable to the credit authorized by this section.

17 D. If the credit allowed pursuant to this section exceeds the  
18 amount of income taxes due or if there are no state income taxes due  
19 on the income of the taxpayer, the amount of the credit allowed but  
20 not used in any taxable year may be carried forward as a credit  
21 against subsequent income tax liability for a period not exceeding  
22 ten (10) years following the qualified expenditures.

23 E. All rehabilitation work to which the credit may be applied  
24 shall be reviewed by the State Historic Preservation Office which

1 will in turn forward the information to the National Park Service  
2 for certification in accordance with 36 C.F.R., Part 67. A  
3 certified historic structure may be rehabilitated for any lawful use  
4 or uses, including without limitation mixed uses and still retain  
5 eligibility for the credit provided for in this section.

6 F. The amount of the credit allowed for any credit claimed for  
7 a certified historic hotel or historic newspaper plant building or  
8 any certified historic structure, but not used, shall be freely  
9 transferable, in whole or in part, to subsequent transferees at any  
10 time during the five (5) years following the year of qualification.  
11 Any person to whom or to which a tax credit is transferred shall  
12 have only such rights to claim and use the credit under the terms  
13 that would have applied to the entity by whom or by which the tax  
14 credit was transferred. The provisions of this subsection shall not  
15 limit the ability of a tax credit transferee to reduce the tax  
16 liability of the transferee regardless of the actual tax liability  
17 of the tax credit transferor for the relevant taxable period. The  
18 transferor ~~originally allowed~~ of the credit and the ~~subsequent~~  
19 transferee shall jointly file a copy of the written credit transfer  
20 agreement with the Oklahoma Tax Commission within thirty (30) days  
21 of the transfer. Such filing of the written credit transfer  
22 agreement with the Oklahoma Tax Commission shall perfect such  
23 transfer. The written agreement shall contain the name, address and  
24 taxpayer identification number of the parties to the transfer, the

1 amount of credit being transferred, the year the credit was  
2 originally allowed to the transferor and, the tax year or years for  
3 which the credit may be claimed, and a representation by the  
4 transferor that the transferor has neither claimed for its own  
5 benefit nor conveyed such credits to any other transferee. The Tax  
6 Commission shall develop a standard form for use by subsequent  
7 transferees of the credit demonstrating eligibility for the  
8 transferee to reduce its applicable tax liabilities resulting from  
9 ownership of the credit. The Tax Commission shall develop a system  
10 to record and track the transfers of the credit and certify the  
11 ownership of the credit and may promulgate rules to permit  
12 verification of the validity and timeliness of a tax credit claimed  
13 upon a tax return pursuant to this subsection but shall not  
14 promulgate any rules which unduly restrict or hinder the transfers  
15 of such tax credit.

16 G. Notwithstanding any other provisions in this section, on or  
17 after January 1, 2009, if a credit allowed pursuant to this section  
18 which has been transferred is subsequently reduced as the result of  
19 an adjustment by the Internal Revenue Service, Tax Commission, or  
20 any other applicable government agency, only the transferor  
21 originally allowed the credit and not any subsequent transferee of  
22 the credit, shall be held liable to repay any amount of disallowed  
23 credit.

24 H. As used in this section:

1           1. "Certified historic hotel or historic newspaper plant  
2 building" means a hotel or newspaper plant building that is listed  
3 on the National Register of Historic Places within thirty (30)  
4 months of taking the credit pursuant to this section.

5           2. "Certified historic structure" means a building that is  
6 listed on the National Register of Historic Places within thirty  
7 (30) months of taking the credit pursuant to this section or a  
8 building located in Oklahoma which is certified by the State  
9 Historic Preservation Office as contributing to the historic  
10 significance of a certified historic district listed on the National  
11 Register of Historic Places, or a local district that has been  
12 certified by the State Historic Preservation Office as eligible for  
13 listing in the National Register of Historic Places; and

14           3. "Qualified rehabilitation expenditures" means capital  
15 expenditures that qualify for the federal rehabilitation credit  
16 provided in Section 47 of Title 26 of the United States Code and  
17 that were paid after December 31, 2000. Qualified rehabilitation  
18 expenditures do not include capital expenditures for nonhistoric  
19 additions except an addition that is required by state or federal  
20 regulations that relate to safety or accessibility. In addition,  
21 qualified rehabilitation expenditures do not include expenditures  
22 related to the cost of acquisition of the property.

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

24           51-2-3295           JCR           1/22/2008 5:49:46 PM