

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 481

By: Lamb, Rice, Johnson
(Constance), Marlatt and
Crutchfield of the Senate

4 and

5 Nelson and Sullivan of the
6 House

7
8 (revenue and taxation - modifying tax credit -
9 effective date -

10 emergency)

11

12

13 AUTHORS: Add the following House Coauthors: Buck, Dorman and
14 Shumate

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
16 entire bill and insert

17 "(revenue and taxation - modifying tax credit -

18 income tax exemption - codification - effective

19 date -

20 emergency)

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1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1132.3, as
2 last amended by Section 1, Chapter 374, O.S.L. 2003 (47 O.S. Supp.
3 2008, Section 1132.3), is amended to read as follows:

4 Section 1132.3 A. There shall be a credit allowed with respect
5 to the fee for registration of a vehicle which is a replacement for
6 a vehicle which was destroyed by a tornado on May 3, 1999, and which
7 was registered pursuant to the provisions of Section 1132 of this
8 title on such date. The credit shall be a prorated amount based on
9 the fee paid for the registration of the destroyed vehicle for the
10 period of registration remaining as of May 3, 1999, and shall be
11 applied to the registration fee for the replacement vehicle pursuant
12 to the provisions of Section 1132 of this title. In no event will
13 the credit be refunded.

14 B. There shall be a credit allowed with respect to the fee for
15 registration of a vehicle which is a replacement for a vehicle which
16 was destroyed by a tornado on October 9, 2001, and which was
17 registered pursuant to the provisions of Section 1132 of this title
18 on such date. The credit shall be a prorated amount based on the
19 fee paid for the registration of the destroyed vehicle for the
20 period of registration remaining as of October 9, 2001, and shall be
21 applied to the registration fee for the replacement vehicle pursuant
22 to the provisions of Section 1132 of this title. In no event will
23 the credit be refunded.

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1 C. There shall be a credit allowed with respect to the fee for
2 registration of a vehicle which is a replacement for a vehicle which
3 was destroyed by a tornado on May 8 or 9, 2003, and which was
4 registered pursuant to the provisions of Section 1132 of this title
5 on such date. The credit shall be a prorated amount based on the
6 fee paid for the registration of the destroyed vehicle for the
7 period of registration remaining as of May 8 or 9, 2003, and shall
8 be applied to the registration fee for the replacement vehicle
9 pursuant to the provisions of Section 1132 of this title. In no
10 event will the credit be refunded.

11 D. There shall be a credit allowed with respect to the fee for
12 registration of a vehicle which is a replacement for a vehicle which
13 was destroyed by a tornado on February 10, 2009, and which was
14 registered pursuant to the provisions of Section 1132 of this title
15 on such date. The credit shall be a prorated amount based on the
16 fee paid for the registration of the destroyed vehicle for the
17 period of registration remaining as of February 10, 2009, and shall
18 be applied to the registration fee for the replacement vehicle
19 pursuant to the provisions of Section 1132 of this title. In no
20 event will the credit be refunded.

21 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1362, as
22 last amended by Section 69, Chapter 5, O.S.L. 2004 (68 O.S. Supp.
23 2008, Section 1362), is amended to read as follows:

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1 Section 1362. A. Except as otherwise provided by Section 1361
2 of this title, the tax levied pursuant to the provisions of the
3 Oklahoma Sales Tax Code, Section 1350 et seq. of this title, shall
4 be remitted or paid to the Oklahoma Tax Commission by the vendor of
5 tangible personal property, services, privileges, admissions, dues,
6 fees, or any other item subject to the tax levied pursuant to the
7 provisions of the Oklahoma Sales Tax Code.

8 B. The amount of tax to be collected by the vendor or to be
9 remitted by the holder of a direct payment permit on each sale shall
10 be the applicable percentage of the gross receipts or gross proceeds
11 thereof as provided by Section 1354 of this title. The applicable
12 percentage shall equal the combination of the state and any
13 applicable municipal and county sales tax rates. In computing the
14 tax to be collected or remitted as the result of any transaction,
15 the tax amount must be carried to the third decimal place when the
16 tax amount is expressed in dollars. The tax must be rounded to a
17 whole cent using a method that rounds up to the next cent whenever
18 the third decimal place is greater than four. The vendor or direct
19 payment permit holder may elect to compute the tax due on
20 transactions on an item or invoice basis.

21 C. For the convenience of the vendor or direct payment permit
22 holder, the Tax Commission is hereby authorized to establish and
23 revise, when necessary, bracket system guidelines to be followed in
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1 collecting the tax levied pursuant to the provisions of the Oklahoma
2 Sales Tax Code, any municipal sales tax, or county sales tax.

3 The use of bracket system guidelines does not relieve the vendor
4 or direct payment permit holder from the duty and liability to remit
5 to the Tax Commission, an amount equal to the applicable percentage
6 of the gross receipts or gross proceeds derived from all sales
7 during the taxable period as provided by Section 1354 of this title.

8 D. Except as otherwise provided by Section 1361 of this title,
9 each person required pursuant to the provisions of the Oklahoma
10 Sales Tax Code to make a sales tax report shall include in the gross
11 proceeds derived from sales to consumers or users, the sales value
12 of all tangible personal property which has been purchased for
13 resale, manufacturing, or further processing, and withdrawn from
14 stock in trade for use or consumption during the taxable period
15 covered by such report, and shall pay the tax on the sales value of
16 this tangible personal property withdrawn from stock in trade for
17 consumption or use; provided, such tax shall not be due on such
18 tangible personal property which has been donated for the purpose of
19 assisting persons affected by the tornadoes occurring May 3, 1999,
20 ~~or~~ May 8 or 9, 2003, or February 10, 2009.

21 E. All persons, either within or without the state, selling
22 merchandise or other tangible personal property in this state
23 through peddlers, solicitors, or other salespersons who do not have
24 established places of business in this state, shall remit or pay the

1 tax levied pursuant to the provisions of the Oklahoma Sales Tax Code
2 and shall be required to file reports and pay the taxes due on all
3 sales made to consumers or users by themselves or by their peddlers,
4 solicitors, or other salespersons.

5 F. All persons defined as Group Five vendors remitting sales
6 tax based upon use of motor fuel or diesel fuel as a sale shall
7 include in a monthly sales tax report the number of gallons of fuel
8 so used and the sales price of the motor fuel or diesel fuel. The
9 amount of tax to be remitted by the Group Five vendor shall be the
10 applicable percentage as provided by Section 1354 of this title, of
11 the sales price of the fuel used during the applicable reporting
12 period.

13 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1367.1, as
14 last amended by Section 73, Chapter 5, O.S.L. 2004 (68 O.S. Supp.
15 2008, Section 1367.1), is amended to read as follows:

16 Section 1367.1 A. For the purpose of compensating the seller
17 or vendor in keeping sales tax records, filing reports and remitting
18 the tax when due, a seller or vendor shall be allowed a deduction as
19 follows:

20 1. For sellers or vendors participating in the Oklahoma Tax
21 Commission's electronic funds transfer and electronic data
22 interchange program, two and one-fourth percent (2 1/4%) of the tax
23 due under the applicable provisions of this title; and
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1 2. For all other sellers or vendors, one and one-fourth percent
2 (1 1/4%) of the tax due under the applicable provisions of this
3 title. The Tax Commission is authorized to allow a vendor to deduct
4 two and one-fourth percent (2 1/4%) if the Tax Commission determines
5 that the vendor is unable to participate in the Tax Commission's
6 electronic funds transfer and electronic data interchange program.

7 Such deduction shall not be allowed with respect to a direct
8 payment permit.

9 B. No deductions from tax shall be allowed if any such report
10 or payment of tax is delinquent; provided, the deduction shall be
11 allowed if the Oklahoma Tax Commission determines that the reason
12 that such report or payment of tax was delinquent was due to the
13 tornadoes occurring May 3, 1999, ~~or~~ May 8 or 9, 2003, or February
14 10, 2009.

15 C. Notwithstanding the formula provided by subsection A of this
16 section, the deduction provided by this section shall be limited to
17 a maximum of Three Thousand Three Hundred Dollars (\$3,300.00) per
18 month per sales tax permit. No such sales tax permit holder may
19 change sales tax permit status in order to avoid the provisions of
20 this subsection.

21 D. Notwithstanding any other provision of law, an amount equal
22 to the excess of the amount calculated by the formula provided by
23 subsection A of this section over the Three-Thousand-Three-Hundred-
24 Dollar limit provided by subsection C of this section shall be

1 retained by the state as an administrative expense and deposited to
2 the General Revenue Fund.

3 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2103.1, as
4 last amended by Section 4, Chapter 374, O.S.L. 2003 (68 O.S. Supp.
5 2008, Section 2103.1), is amended to read as follows:

6 Section 2103.1 There shall be a credit allowed with respect to
7 the excise tax paid for a vehicle which is:

8 1. A replacement for a vehicle which was destroyed by a tornado
9 on May 3, 1999, and upon which excise tax had been paid pursuant to
10 the provisions of Section 2103 of this title on or after May 3, 1998;

11 2. A replacement for a vehicle which was destroyed by a tornado
12 on October 9, 2001, and upon which excise tax had been paid pursuant
13 to the provisions of Section 2103 of this title on or after October
14 9, 2000; ~~or~~

15 3. A replacement for a vehicle which was destroyed by a tornado
16 on May 8 or 9, 2003, and upon which excise tax had been paid pursuant
17 to the provisions of Section 2103 of this title on or after May 8 or
18 9, 2002; or

19 4. A replacement for a vehicle which was destroyed by a tornado
20 on February 10, 2009, and upon which excise tax had been paid
21 pursuant to the provisions of Section 2103 of this title on or after
22 February 10, 2008.

23 The credit shall be in the amount of the excise tax which was
24 paid for the destroyed vehicle and shall be applied to the excise tax

1 due on the replacement vehicle. In no event shall the credit be
2 refunded.

3 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2357.29, as
4 last amended by Section 5, Chapter 374, O.S.L. 2003 (68 O.S. Supp.
5 2008, Section 2357.29), is amended to read as follows:

6 Section 2357.29 A. For tax years beginning after December 31,
7 1999, there shall be allowed a credit against the tax imposed by
8 Section 2355 of this title for owners of residential real property
9 whose primary residence was damaged or destroyed in the May 3, 1999,
10 tornado. For tax years beginning after December 31, 2001, there
11 shall be allowed a credit against the tax imposed by Section 2355 of
12 this title for owners of residential real property whose primary
13 residence was damaged or destroyed in the October 9, 2001, tornado.
14 For tax years beginning after December 31, 2003, there shall be
15 allowed a credit against the tax imposed by Section 2355 of this
16 title for owners of residential real property whose primary
17 residence was damaged or destroyed in the May 8 or 9, 2003, tornado.
18 For tax years beginning after December 31, 2009, there shall be
19 allowed a credit against the tax imposed by Section 2355 of this
20 title for owners of residential real property whose primary
21 residence was damaged or destroyed in the February 10, 2009,
22 tornado. The amount of the credit shall be the difference between
23 the ad valorem property tax paid on such property and improvements
24 in the year prior to the tornado damage or destruction and the

1 amount of ad valorem property tax paid on the property and
2 improvements the first year after the improvement is completely or
3 fully repaired or rebuilt. For purposes of this credit, the amount
4 of ad valorem property tax paid the first year after the improvement
5 is repaired or rebuilt shall be based on the same or similar square
6 footage as the improvement which was damaged or destroyed.

7 B. The credit shall be a refundable credit. Eligible taxpayers
8 shall be entitled to claim this credit for five (5) consecutive
9 years. After the first year the credit is claimed, the amount of the
10 credit shall be eighty percent (80%) of the previous year's credit.
11 If the taxpayer has no income tax liability, or if the credit exceeds
12 the amount of the income tax liability of the taxpayer, then the
13 credit, or balance thereof, shall be paid out in the same manner and
14 out of the same fund as refunds of income taxes are paid and so much
15 of the fund as is necessary for such purposes is hereby appropriated.

16 C. In order to qualify for this credit:

17 1. The property shall have been damaged or destroyed by a
18 tornado or similar cyclonic winds on May 3, 1999, October 9, 2001,
19 ~~or~~ May 8 or 9, 2003, or February 10, 2009;

20 2. The property shall be within an area which has been declared
21 a federal disaster area;

22 3. The property shall be the primary residence of the owner
23 both prior to and after the tornado;

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1 4. The owner shall have been granted a homestead exemption or
2 be eligible to claim a homestead exemption both prior to and after
3 the tornado;

4 5. The primary residence shall be repaired or rebuilt on the
5 same property as it existed prior to the tornado; and

6 6. The primary residence shall be repaired or rebuilt and used
7 as the primary residence no later than December 31, 2001, with
8 respect to the May 3, 1999, tornado, no later than December 31,
9 2003, with respect to the October 9, 2001, tornado, ~~or~~ no later than
10 December 31, 2005, with respect to the May 8 or 9, 2003, tornado or
11 no later than December 31, 2011, with respect to the February 10,
12 2009, tornado.

13 D. The credit shall not be allowed if the property is
14 transferred or title is changed or conveyed as defined in Section
15 2802.1 of this title. Any credit claimed and allowed prior to the
16 transfer of the property or the change or conveyance of title shall
17 not be affected.

18 E. The Oklahoma Tax Commission shall promulgate any necessary
19 rules and develop any necessary forms to implement the provisions of
20 this section.

21 SECTION 6. AMENDATORY Section 1, Chapter 439, O.S.L.
22 2005, as amended by Section 16, Chapter 272, O.S.L. 2006 (68 O.S.
23 Supp. 2008, Section 2357.46), is amended to read as follows:

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1 Section 2357.46 A. For tax years beginning after December 31,
2 2005, and ending before January 1, 2010, there shall be allowed a
3 credit against the tax imposed by Section 2355 of ~~Title 68 of~~
4 ~~Oklahoma Statutes~~ this title for eligible expenditures incurred by a
5 contractor in the construction of energy efficient residential
6 property of two thousand (2,000) square feet or less. For tax years
7 beginning on or after January 1, 2010, there shall be allowed a
8 credit against the tax imposed by Section 2355 of this title for
9 eligible expenditures incurred by a contractor in the construction
10 of energy efficient residential property which is of any size. The
11 amount of the credit shall be based upon the following:

12 1. For any eligible energy efficient residential property
13 constructed and certified as forty percent (40%) or more above the
14 International Energy Conservation Code 2003 and any supplement in
15 effect at the time of completion, the amount of the credit shall be
16 equal to the eligible expenses, not to exceed Four Thousand Dollars
17 (\$4,000.00) for the taxpayer who is the contractor; and

18 2. For any eligible energy efficient residential property
19 constructed and certified as between twenty percent (20%) and
20 thirty-nine percent (39%) above the International Energy
21 Conservation Code 2003 and any supplement in effect at the time of
22 completion, the credit shall be equal to the eligible expenditures,
23 not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who
24 is the contractor.

1 B. As used in this section:

2 1. "Eligible expenditure" means any:

- 3 a. energy efficient heating or cooling system,
4 b. insulation material or system which is specifically
5 and primarily designed to reduce the heat gain or loss
6 of a residential property when installed in or on such
7 property,
8 c. exterior windows, including skylights,
9 d. exterior doors, and
10 e. any metal roof installed on a residential property,
11 but only if such roof has appropriate pigmented
12 coatings which are specifically and primarily designed
13 to reduce the heat gain of such dwelling unit and
14 which meet Energy Star program requirements;

15 2. "Contractor" means the taxpayer who constructed the
16 residential property or manufactured home, or if more than one
17 taxpayer qualifies as the contractor, the primary contractor; and

18 3. "Eligible energy efficient residential property" means a
19 newly constructed residential property or manufactured home property
20 which is located in the State of Oklahoma and substantially complete
21 after December 31, 2005, and which is two thousand (2,000) square
22 feet or less for credits claimed for tax years ending before January
23 1, 2010, and which is of any size for credits claimed for tax years
24 beginning on and after January 1, 2010:

- 1 a. for the credit provided pursuant to paragraph 1 of
2 subsection A of this section, which is certified by an
3 accredited Residential Energy Services Network
4 Provider using the Home Energy Rating System to have:
- 5 (1) a level of annual heating and cooling energy
6 consumption which is at least forty percent (40%)
7 below the annual level of heating and cooling
8 energy consumption of a comparable residential
9 property constructed in accordance with the
10 standards of Chapter 4 of the 2003 International
11 Energy Conservation Code, as such code is in
12 effect on the effective date of this act,
- 13 (2) heating and cooling equipment efficiencies which
14 correspond to the minimum allowed under the
15 regulations established by the Department of
16 Energy pursuant to the National Appliance Energy
17 Conservation Act of 1987 and in effect at the
18 time of construction of the property, and
- 19 (3) building envelope component improvements which
20 account for at least one-fifth of the reduced
21 annual heating and cooling energy consumption
22 levels,
- 23 b. for the credit provided pursuant to paragraph 2 of
24 subsection A of this section, which is certified by an

1 accredited Residential Energy Services Network

2 Provider using the Home Energy Rating System to have:

3 (1) a level of annual heating and cooling energy
4 consumption which is between twenty percent (20%)
5 and thirty-nine percent (39%) below the annual
6 level of heating and cooling energy consumption
7 of a comparable residential property constructed
8 in accordance with the standards of Chapter 4 of
9 the 2003 International Energy Conservation Code,
10 as such code is in effect on the effective date
11 of this act,

12 (2) heating and cooling equipment efficiencies which
13 correspond to the minimum allowed under the
14 regulations established by the Department of
15 Energy pursuant to the National Appliance Energy
16 Conservation Act of 1987 and in effect at the
17 time of construction of the property, and

18 (3) building envelope component improvements which
19 account for at least one-third of the reduced
20 annual heating and cooling energy consumption
21 levels.

22 C. The credit provided for in subsection A of this section may
23 only be claimed once for the contractor of any eligible residential
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1 energy efficient property during the taxable year when the property
2 is substantially complete.

3 D. If the credit allowed pursuant to this section exceeds the
4 amount of income taxes due or if there are no state income taxes due
5 on the income of the taxpayer, the amount of credit allowed but not
6 used in any taxable year may be carried forward as a credit against
7 subsequent income tax liability for a period not exceeding four (4)
8 years following the qualified expenditures.

9 E. For credits earned on or after the effective date of this
10 act, the credits authorized by this section shall be freely
11 transferable to subsequent transferees.

12 F. The Oklahoma Tax Commission shall promulgate rules necessary
13 to implement this act.

14 SECTION 7. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2358.1A of Title 68, unless
16 there is created a duplication in numbering, reads as follows:

17 A. Any payment made by the United States Department of Defense
18 as a result of the death of a member of the Armed Forces of the
19 United States who has been killed in action in a United States
20 Department of Defense designated combat zone shall be exempt from
21 Oklahoma income tax during the taxable year in which the individual
22 is declared deceased by the Armed Forces.

23 B. In any case where income tax has been paid upon any income
24 exempt pursuant to subsection A of this section the tax monies shall

1 be refunded to the person or personal representative of the person.
2 The refund shall be made by the Oklahoma Tax Commission out of the
3 Oklahoma Income Tax Adjustment Fund, and so much of such fund as is
4 necessary for such purpose is hereby appropriated. The provisions
5 of this section shall be liberally construed to accomplish its
6 purpose and the statute of limitations with respect to refunds of
7 income taxes shall not apply to taxpayers covered by this section.

8 SECTION 8. AMENDATORY 68 O.S. 2001, Section 2888, as
9 last amended by Section 6, Chapter 374, O.S.L. 2003 (68 O.S. Supp.
10 2008, Section 2888), is amended to read as follows:

11 Section 2888. A. 1. The term "homestead", as used in the
12 provisions of the Ad Valorem Tax Code governing homestead
13 exemptions, shall mean and include the actual residence of a natural
14 person who is a citizen of the State of Oklahoma, provided the
15 record actual ownership of such residence be vested in such natural
16 person residing and domiciled thereon. Any single person of legal
17 age, married couple and their minor child or children, or the minor
18 child or children of a deceased person, whether residing together or
19 separated, or surviving spouse shall be allowed under Section 2801
20 et seq. of this title only one homestead exemption in this state.
21 No person or the family of such person shall be required to be
22 domiciled thereon if such person is in the armed service of the
23 United States in time of war or during a state of national emergency
24 as declared by the Congress or the President of the United States,

1 and such person shall not be required to be domiciled thereon in
2 order to assert or claim the exemption provided in Section 2889 of
3 this title, and such exemption may be claimed by any agent of, or
4 member of the family of, such person. The surviving spouse and/or
5 minor children of a deceased person shall be considered record
6 owners of the homestead where the title of record in the office of
7 the county clerk on January 1 is in the name of the deceased, but in
8 all other cases the deed or other evidence of ownership must be of
9 record in the office of the county clerk on January 1 in order for
10 any person to be qualified as the record owner. However, a natural
11 person actually owning, residing and domiciled in the residence on
12 January 1 shall be deemed to be the record owner of the residence on
13 January 1, within the meaning of this section, if the deed or other
14 evidence of ownership of such person, executed on or before January
15 1, be of record in the office of the county clerk on or before
16 February 1 immediately following. Despite any provision to the
17 contrary in this section, if a parent or parents residing and
18 domiciled in the residence own the residence jointly with one or
19 more of their children, whether residing together or separated, and
20 where the record joint ownership of the property is recorded in the
21 office of the county clerk in accordance with the provisions of this
22 section, the parent or parents residing and domiciled in the
23 residence shall be entitled to the entire homestead exemption. A
24 rural homestead shall not include more than one hundred sixty (160)

1 acres of land and the improvements thereon. An urban homestead
2 shall not include any land except the lot or lots, or the unplatted
3 tract, upon which are located the dwelling, garage, barn and/or
4 other outbuildings necessary or convenient for family use.

5 2. Despite any provision to the contrary in this section, the
6 person actually owning, residing and domiciled in the residence on
7 May 15, 2000, shall be deemed to be the record owner of the residence
8 on May 15, 2000, within the meaning of this section, if the deed or
9 other evidence of ownership of such person, executed on or before May
10 15, 2000, be of record in the office of the county clerk on or before
11 such date. However, the provisions of this paragraph shall only
12 apply to any person who is eligible to claim the income tax credit
13 pursuant to Section 2357.29 of this title with respect to the May 3,
14 1999, tornado, or to any person whose primary residence was damaged
15 or destroyed in the May 3, 1999, tornado and who purchased or built a
16 new primary residence at a location within this state other than the
17 location of the damaged or destroyed residence.

18 3. Despite any provision to the contrary in this section, the
19 person actually owning, residing and domiciled in the residence on
20 May 15, 2004, shall be deemed to be the record owner of the residence
21 on May 15, 2004, within the meaning of this section, if the deed or
22 other evidence of ownership of such person, executed on or before May
23 15, 2004, be of record in the office of the county clerk on or before
24 such date. However, the provisions of this paragraph shall only

1 apply to any person who is eligible to claim the income tax credit
2 pursuant to Section 2357.29 of this title with respect to the May 8
3 or 9, 2003, tornado or to any person whose primary residence was
4 damaged or destroyed in the May 8 or 9, 2003, tornado and who
5 purchased or built a new primary residence at a location within this
6 state other than the location of the damaged or destroyed residence.

7 4. Despite any provision to the contrary in this section, the
8 person actually owning, residing and domiciled in the residence on
9 May 15, 2010, shall be deemed to be the record owner of the residence
10 on May 15, 2010, within the meaning of this section, if the deed or
11 other evidence of ownership of such person, executed on or before May
12 15, 2010, be of record in the office of the county clerk on or before
13 such date. However, the provisions of this paragraph shall only
14 apply to any person who is eligible to claim the income tax credit
15 pursuant to Section 2357.29 of this title with respect to the
16 February 10, 2009, tornado or to any person whose primary residence
17 was damaged or destroyed in the February 10, 2009, tornado and who
18 purchased or built a new primary residence at a location within this
19 state other than the location of the damaged or destroyed residence.

20 B. The term "rural homestead" as used herein shall mean and
21 include any homestead located outside a city or town or outside any
22 platted subdivision or addition.

23 C. The term "urban homestead" as used herein shall mean and
24 include any homestead located within any city or town whether

