

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2153

By: Armes

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; authorizing
8 tax credits; providing for credits issued to
9 qualified housing component manufacturing facility;
10 providing for transferability of credits; specifying
11 credit amount based on certain completed units of
12 output; limiting total amount of credits; defining
13 terms; prescribing procedures for use of credits;
14 requiring certain information to be provided to
15 Oklahoma Tax Commission; imposing restriction upon
16 discount of credits; providing limitation upon time
17 period for use of credit; imposing duties upon
18 Oklahoma Tax Commission; providing for certification
19 process; 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 2357.95 of Title 68, unless
24 there is created a duplication in numbering, reads as follows:

25 A. For taxable years beginning after December 31, 2008, there
26 shall be allowed a credit against the tax imposed pursuant to
27 Section 2355 or 2370 of Title 68 of the Oklahoma Statutes or against
28 the tax imposed pursuant to Section 624 or 628 of Title 36 of the

1 Oklahoma Statutes or against the tax imposed pursuant to Section
2 1001 of Title 68 of the Oklahoma Statutes for tax credits originally
3 issued to a qualified housing component manufacturing facility
4 located in Oklahoma. The credit may be used in the payment of
5 estimated tax payments for the tax imposed by Section 624 or 628 of
6 Title 36 of the Oklahoma Statutes.

7 B. The amount of the credit shall be freely transferable to
8 subsequent Oklahoma transferees. The credit authorized by this
9 section shall be in the amount of Two Thousand Five Hundred Dollars
10 (\$2,500.00) for each residence for which the initial recipient has
11 provided components. The owner of any credit claimed shall present
12 with each credit an affidavit or certificate, in such form as may be
13 prescribed for such purpose by the Oklahoma Tax Commission,
14 indicating that the credit is based upon providing components from
15 the facility. The credits authorized by this section may be claimed
16 by any taxpayer on a quarterly basis for any tax as provided by
17 subsection A of this section that is paid on a quarterly basis.

18 C. The total amount of credits authorized to be claimed
19 pursuant to this section shall not exceed Four Million Dollars
20 (\$4,000,000.00). Credits in the amount of Four Million Dollars
21 (\$4,000,000.00) shall be issued directly to a qualified housing
22 component manufacturing facility upon certification by the Oklahoma
23 Tax Commission that the applicant for such credits is a qualified
24 initial recipient; provided, the total amount of credits that may be

1 claimed in any fixed year shall not exceed One Million Dollars
2 (\$1,000,000.00).

3 D. As used in this section:

4 1. "Qualified housing component manufacturing facility" means
5 real property and related personal property used exclusively for the
6 manufacture of components or systems to be incorporated into the
7 structure of residential dwellings, including, but not limited to,
8 wooden house frame components or sections, plumbing assemblies,
9 electrical wiring systems, roof assemblies or subassemblies or such
10 other assemblies, components or systems that are designed to be
11 mass-produced by the facility to achieve cost efficiencies for
12 builders of residences. As used in this paragraph, "qualified
13 housing component manufacturing facility" does not mean a facility
14 engaged in the production of manufactured homes as defined by 42
15 U.S.C., Section 5401 et seq., and rules promulgated pursuant
16 thereto; and

17 2. "Qualified initial recipient" means a person, firm,
18 partnership, corporation, limited liability company or other legal
19 entity organized pursuant to the laws of the State of Oklahoma which
20 has as its principal business purpose and activity the manufacture
21 of components, assemblies, structures or systems for incorporation
22 into a finished structure consisting of a residential dwelling and
23 which, after the sale of the credits authorized by this section,
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1 will own real property in the state to be used for the manufacture
2 of such components, assemblies, structures or systems.

3 E. For purposes of this section, the qualified housing
4 component manufacturing facility may receive the tax credits
5 authorized by subsection A of this section prior to the date as of
6 which actual manufacturing activity at a qualified facility begins.
7 In order for the Oklahoma Tax Commission to issue credits to a
8 qualified initial recipient, the applicant shall be required to
9 demonstrate that it is a legally recognized business entity
10 authorized to do business in the state and that its principal
11 business purpose meets the requirements of paragraph 1 of subsection
12 D of this section.

13 F. In order to be eligible for receipt of any tax credits
14 authorized by this section, the entity making application shall
15 present to the Oklahoma Tax Commission, in the form of an affidavit
16 executed by a principal representing the applicant, whether a member
17 of the board of directors or officer of a corporation, or a manager
18 or member of a limited liability company, stating that the person
19 executing the affidavit is either a member of the board of directors
20 or an officer of the applicant or both, in the case of a
21 corporation, or a manager or member or both, in the case of a
22 limited liability company, and that the affiant is an individual who
23 has at least ten (10) years of experience in the business of
24 producing, within the State of Oklahoma, wall panels, plumbing

1 assemblies and electrical wiring components, or any such combination
2 of subassembly components that will be manufactured by the
3 applicant. The presentation of a duly executed affidavit pursuant
4 to this subsection shall be sufficient documentation of the
5 requirements for the principal acting on behalf of the applicant for
6 receipt of the tax credits and no further documentation related to
7 the factual recitations of the affidavit shall be required.

8 G. The credits authorized by this section shall not be sold for
9 less than eighty percent (80%) of their face or par value.

10 H. The credits authorized by this section shall not be claimed
11 against any income tax, bank privilege tax or insurance premium tax
12 liability prior to July 1, 2010.

13 I. The Oklahoma Tax Commission shall:

14 1. Certify, upon request of an authorized agent or
15 representative of a qualified initial recipient, that the qualified
16 initial recipient is authorized to receive the tax credits and
17 transfer such credits to a subsequent purchaser. The certification
18 shall be in writing and signed by an authorized representative of
19 the Tax Commission and, for purposes of determining qualifications
20 of an establishment which may be eligible for the credit authorized
21 by this section, shall be binding upon the Tax Commission; and

22 2. Issue a certificate to tax credit transferees that provides
23 adequate documentation of qualification for the credit authorized by
24 this section even if the credit may not be claimed until after the

1 date upon which the certificate is requested. Upon issuance, the
2 certificate shall be evidence that a transferee of the qualified
3 initial recipient submitting the certificate, or a certified copy
4 thereof, with the relevant tax return or other form, has the legal
5 right to exercise the credit in order to reduce the relevant tax
6 liability for the period authorized by this section.

7 SECTION 2. This act shall become effective November 1, 2009.

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