

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1664

6 By: (Marlatt) and (Barrington)
7 of the Senate

8 and

9 Johnson and Pittman of the
10 House

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to tax credits; defining terms;
13 providing tax credit for certain taxpayers under
14 specified circumstances; setting amount of credit
15 subject to specified limits; limiting total credits
16 issued; providing for refund of credit under
17 specified circumstances; providing for carryforward
18 or carryback of unused credits; requiring certain
19 documents to be submitted; providing for recapture of
20 credits under specified circumstances; providing for
21 exclusion from taxable income under specified
22 circumstances; authorizing Oklahoma Housing Finance
23 Agency and Oklahoma Tax Commission to require
24 documentation; 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 2357.403 of Title 68, unless
there is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Eligibility statement" means a statement authorized and
2 issued by the Oklahoma Housing Finance Agency certifying that a
3 given project qualifies for the low-income housing tax credit
4 authorized by this section. The Oklahoma Housing Finance Agency
5 shall promulgate rules establishing criteria upon which the
6 eligibility statements will be issued. The eligibility statement
7 shall specify the amount of the low-income housing tax credit
8 allowed. The Oklahoma Housing Finance Agency shall only authorize
9 the tax credits to qualified projects which are placed into service
10 after January 1, 2013, and which begin generating credits during
11 calendar year 2014, or any year thereafter;

12 2. "Federal low-income housing tax credit" means the federal
13 tax credit as provided in Section 42 of the 1986 Internal Revenue
14 Code, as amended;

15 3. "Low-income project" means a housing project which qualifies
16 for federal low-income housing tax credits;

17 4. "Median income" means those incomes which are determined by
18 the federal Department of Housing and Urban Development guidelines
19 and adjusted for family size;

20 5. "Qualified Oklahoma project" means a qualified low-income
21 building as that term is defined in Section 42 of the 1986 Internal
22 Revenue Code, as amended, which is located in a county in Oklahoma
23 which experienced extensive damage to property as the result of a
24 tornado on April 15, 2012;

1 6. "Taxpayer" means a person, firm or corporation subject to
2 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes
3 or an insurance company subject to the tax imposed by Section 624 of
4 Title 36 of the Oklahoma Statutes or other financial institution
5 subject to the tax imposed by Section 2370 of Title 68 of the
6 Oklahoma Statutes.

7 B. 1. A taxpayer owning an interest in a qualified Oklahoma
8 project shall, subject to the limitations provided under the
9 provisions of paragraph 3 of this subsection, be allowed a state tax
10 credit if the Oklahoma Housing Finance Agency issues an eligibility
11 statement for that project.

12 2. For qualified Oklahoma projects placed in service after
13 January 1, 2013 and before January 1, 2016, the credit available to
14 a project shall be equal to an amount the Oklahoma Housing Finance
15 Agency determines is necessary to ensure the feasibility of the
16 project, up to an amount equal to the federal low-income housing tax
17 credit for a qualified Oklahoma project.

18 3. The total credits made available to all qualified Oklahoma
19 projects for an allocation year shall be equal to fifty percent
20 (50%) of the federal credits available to the State for the same
21 allocation year, not to exceed Four Million Dollars (\$4,000,000.00).

22 4. In all cases where a claimant has no income tax liability or
23 where the tax credit authorized pursuant to this section exceeds the
24 income tax liability of the claimant, such claim, or any balance

1 thereof, shall be paid out in the same manner and out of the same
2 fund as refunds of income taxes are paid and so much of the fund as
3 is necessary for such purposes is hereby appropriated.

4 5. Any credit claimed, but not used in a taxable year, may be
5 carried back to each of the three (3) prior taxable years or may be
6 carried forward to each of the three (3) subsequent taxable years.

7 C. The owner of a qualified Oklahoma project eligible for the
8 credit authorized by this section shall submit, at the time of
9 filing the tax return with the Tax Commission, an eligibility
10 statement from the Oklahoma Housing Finance Agency. In the case of
11 failure to attach the eligibility statement, no credit under this
12 section shall be allowed with respect to such project for that year
13 until required documents are provided to the Tax Commission.

14 D. If under Section 42 of the 1986 Internal Revenue Code, as
15 amended, a portion of any federal low-income housing credits taken
16 on a low-income project is required to be recaptured only during the
17 first ten (10) years after a project is placed in service, the
18 taxpayer claiming state credits with respect to such project shall
19 also be required to recapture a portion of any state credits
20 authorized by this section. The state recapture amount shall be
21 equal to the proportion of the state credit claimed by the taxpayer
22 that equals the proportion the federal recapture amount bears to the
23 original federal low-income housing credit amount subject to
24 recapture.

1 E. A taxpayer shall be allowed to exclude from taxable income a
2 portion of the capital gain, as calculated under the Internal
3 Revenue Code of 1986, as amended, that results from the sale of a
4 low-income project subsidized by the federal Department of Housing
5 and Urban Development to a nonprofit or governmental organization,
6 agreeing to preserve or increase the low-income occupancy of the
7 project. For those owners whose low-income project has at least
8 forty percent (40%) of its units occupied by persons or families
9 having incomes of sixty percent (60%) or less of the median income,
10 the exclusion shall equal twenty-five percent (25%) of the capital
11 gain.

12 SECTION 2. This act shall become effective July 1, 2013.

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