

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB804 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Mike Jackson \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 804

By: Marlatt of the Senate  
and  
Jackson of the House

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10 PROPOSED COMMITTEE SUBSTITUTE

11 [ tax credits - Oklahoma Housing Finance Agency and  
12 Oklahoma tax - codification - effective date ]

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

16 SECTION 1. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2357.403 of Title 68, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. This act shall be known and may be cited as the "Oklahoma  
20 Affordable Housing Act".

21 B. As used in this section:

22 1. "Allocation year" means the year for which the Oklahoma  
23 Housing Finance Agency awards credits pursuant to this section;

1           2. "Eligibility statement" means a statement authorized and  
2 issued by the Oklahoma Housing Finance Agency (OHFA) certifying that  
3 a given project qualifies for the Oklahoma Affordable Housing tax  
4 credit authorized by this section. OHFA under Title 330 Oklahoma  
5 Housing Finance Agency Chapter 36 Affordable Housing Tax Credit  
6 Program Rules shall promulgate rules establishing criteria upon  
7 which the eligibility statements will be issued. The eligibility  
8 statement shall specify the amount of the Oklahoma Affordable  
9 Housing tax credits allocated to a qualified Oklahoma project. OHFA  
10 shall only authorize the tax credits created by this section to  
11 qualified Oklahoma projects which are placed in service after  
12 December 31, 2013, and which begin generating credits during  
13 calendar year 2014 or any calendar year thereafter;

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

17           4. "Oklahoma Affordable Housing tax credit" means the tax  
18 credit created by this section;

19           5. "Qualified investor" means a company, its principal or an  
20 affiliated company that either:

21           a. separately or together, has claimed federal low-income  
22 housing tax credits and state low-income housing tax  
23 credits in at least two states for eight (8) or more  
24 tax years, or

1           b.    is a bank authorized to engage in the banking business  
2                    as defined in Section 102 of Title 6 of the Oklahoma  
3                    Statutes;

4           6.    "Qualified Oklahoma project" means a qualified low-income  
5 building as that term is defined in Section 42 of the 1986 Internal  
6 Revenue Code, as amended, which is located in Oklahoma and in which  
7 a qualified investor has invested;

8           7.    "State low-income housing tax credit" means a state tax  
9 credit which is awarded by any state in conjunction with an award of  
10 the federal low-income housing tax credit; and

11           8.    "Taxpayer" means a person, firm or corporation subject to  
12 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes  
13 or an insurance company subject to the tax imposed by Section 624 or  
14 628 of Title 36 of the Oklahoma Statutes or other financial  
15 institution subject to the tax imposed by Section 2370 of Title 68  
16 of the Oklahoma Statutes.

17           C.    For qualified Oklahoma projects placed in service after  
18 December 31, 2013, the amount of state tax credits created by this  
19 section which are available to a project shall be equal to that of  
20 the federal low-income housing tax credits for a qualified Oklahoma  
21 project. The total Oklahoma Affordable Housing tax credits made  
22 available to all qualified Oklahoma projects for an allocation year  
23 shall be equal to the annual federal low-income housing tax credits  
24 available to the state for the same allocation year.

1 D. A taxpayer owning an interest in an investment in a  
2 qualified project shall be allowed a state tax credit under this  
3 section if the Oklahoma Housing Finance Agency issues an eligibility  
4 statement for that project. Such taxpayer shall have the intent to  
5 receive an allotment of Oklahoma Affordable Housing tax credits from  
6 the qualified project in each year such project continues to  
7 generate credits. The commitment of such taxpayer's total capital  
8 to the investment may be contingent only upon the receipt by the  
9 qualified project of the initial issuance of the eligibility  
10 statement from the Oklahoma Housing Finance Agency. Such taxpayer  
11 may transfer or assign its interest in the investment. The Oklahoma  
12 Affordable Housing tax credits may be used in the payment of the  
13 taxpayer's estimated state tax payments.

14 E. An insurance company claiming a credit against state premium  
15 tax or retaliatory tax or any other tax imposed by Section 624 or  
16 628 of Title 36 of the Oklahoma Statutes shall not be required to  
17 pay any additional retaliatory tax under Section 628 of Title 36 of  
18 the Oklahoma Statutes as a result of claiming the credit. The  
19 credit may fully offset any retaliatory tax imposed by Section 628  
20 of Title 36 of the Oklahoma Statutes.

21 F. The credit authorized by this section shall not be used to  
22 reduce the tax liability of the taxpayer to less than zero (0).  
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1 G. Any credit claimed but not used in a taxable year may be  
2 carried back to each of the three (3) prior taxable years or may be  
3 carried forward to each of the five (5) subsequent taxable years.

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

11 I. If under Section 42 of the 1986 Internal Revenue Code, as  
12 amended, a portion of any federal low-income housing credits taken  
13 on a qualified project is required to be recaptured during the first  
14 ten (10) years after a project is placed in service, the taxpayer  
15 claiming state credits with respect to such project shall also be  
16 required to recapture a portion of any state credits authorized by  
17 this section. The amount of Oklahoma Affordable Housing tax credits  
18 subject to recapture shall be proportionally equal to the amount of  
19 federal low-income housing credits subject to recapture.

20 J. The Oklahoma Housing Finance Agency or the Oklahoma Tax  
21 Commission may require the filing of additional documentation  
22 necessary to determine the accuracy of a tax credit claimed.

23 K. The Oklahoma Affordable Housing Act shall undergo a review  
24 every five (5) years by a committee of nine (9) persons, to be

1 appointed three persons each by the Governor, President Pro Tempore  
2 of the Oklahoma State Senate and the Speaker of the Oklahoma House  
3 of Representatives.

4 SECTION 2. This act shall become effective January 1, 2014.

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6 54-1-7756 MAH 04/03/13  
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