

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 804

By: Marlatt of the Senate

and

Jackson of the House

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9 COMMITTEE SUBSTITUTE

10 [tax credits - Oklahoma Housing Finance Agency and

11 Oklahoma tax - codification - effective date]

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

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

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

20 B. As used in this section:

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

23 2. "Eligibility statement" means a statement authorized and
24 issued by the Oklahoma Housing Finance Agency (OHFA) certifying that

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

12 3. "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 4. "Oklahoma Affordable Housing tax credit" means the tax
16 credit created by this section;

17 5. "Qualified Oklahoma project" means a qualified low-income
18 building as that term is defined in Section 42 of the 1986 Internal
19 Revenue Code, as amended, which is located in Oklahoma;

20 6. "State low-income housing tax credit" means a state tax
21 credit which is awarded by any state in conjunction with an award of
22 the federal low-income housing tax credit; and

23 7. "Taxpayer" means a person, firm or corporation subject to
24 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes

1 or an insurance company subject to the tax imposed by Section 624 or
2 628 of Title 36 of the Oklahoma Statutes or other financial
3 institution subject to the tax imposed by Section 2370 of Title 68
4 of the Oklahoma Statutes.

5 C. For qualified Oklahoma projects placed in service after
6 December 31, 2013, the amount of state tax credits created by this
7 section which are available to a project shall be equal to that of
8 the federal low-income housing tax credits for a qualified Oklahoma
9 project. The total Oklahoma Affordable Housing tax credits made
10 available to all qualified Oklahoma projects for an allocation year
11 shall be equal to the annual federal low-income housing tax credits
12 available to the state for the same allocation year.

13 D. A taxpayer owning an interest in an investment in a
14 qualified project shall be allowed a state tax credit under this
15 section if the Oklahoma Housing Finance Agency issues an eligibility
16 statement for that project, which tax credit shall be allocated
17 among some or all of the partners, members or shareholders of the
18 taxpayer owning such interest in any manner agreed to by such
19 persons. Such taxpayer may transfer or assign its interest in the
20 investment.

21 E. An insurance company claiming a credit against state premium
22 tax or retaliatory tax or any other tax imposed by Section 624 or
23 628 of Title 36 of the Oklahoma Statutes shall not be required to
24 pay any additional retaliatory tax under Section 628 of Title 36 of

1 the Oklahoma Statutes as a result of claiming the credit. The
2 credit may fully offset any retaliatory tax imposed by Section 628
3 of Title 36 of the Oklahoma Statutes.

4 F. The credit authorized by this section shall not be used to
5 reduce the tax liability of the taxpayer to less than zero (0).

6 G. Any credit claimed but not used in a taxable year may be
7 carried forward to each of the five (5) subsequent taxable years.

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

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

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

4 K. The Oklahoma Affordable Housing Act shall undergo a review
5 every five (5) years by a committee of nine (9) persons, to be
6 appointed three persons each by the Governor, President Pro Tempore
7 of the Oklahoma State Senate and the Speaker of the Oklahoma House
8 of Representatives.

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

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