SENATE FLOOR VERSION
February 19, 2013
AS AMENDED

SENATE BILL NO. 804 By: Marlatt of the Senate

and

Jackson of the House

[tax credits - Oklahoma Housing Finance Agency and Oklahoma Tax - codification - 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. This act shall be known and may be cited as the "Oklahoma Affordable Housing Act".

B. As used in this section:

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

2. "Eligibility statement" means a statement authorized and issued by the Oklahoma Housing Finance Agency certifying that a given project qualifies for the Oklahoma Affordable Housing tax credit authorized by this section. The Housing Finance Agency shall promulgate rules establishing criteria upon which the eligibility

statements will be issued. The eligibility statement shall specify the amount of the Oklahoma Affordable Housing tax credits allocated to a qualified Oklahoma project. The Housing Finance Agency shall only authorize the tax credits created by this section to qualified Oklahoma projects which are placed in service after December 31, 2013, and which begin generating credits during calendar year 2014 or any calendar year thereafter;

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

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

5. "Qualified Investor" means a company, its principal or an affiliated company that, separately or together, has claimed federal low-income housing tax credits and state low-income housing tax credits in at least two (2) states for eight (8) or more tax years;

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

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

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

C. For qualified Oklahoma projects placed in service after December 31, 2013 **and before January 1, 2019,** the amount of state tax credits created by this section which are available to a project shall be equal to that of the federal low-income housing tax credits for a qualified Oklahoma project. The total Oklahoma Affordable Housing tax credits made available to all qualified Oklahoma projects for an allocation year shall be equal to the annual federal low-income housing tax credits available to the state for the same allocation year.

D. A taxpayer owning an interest in a qualified Oklahoma project shall be allowed a state tax credit under this section if the Oklahoma Housing Finance Agency issues an eligibility statement for that project. The Oklahoma Affordable Housing tax credits may be used in the payment of the taxpayer's estimated state tax payments.

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

pay any additional retaliatory tax under Section 628 of Title 36 of the Oklahoma Statutes as a result of claiming the credit. The credit may fully offset any retaliatory tax imposed by Section 628 of Title 36 of the Oklahoma Statutes.

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

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

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

I. If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a qualified Oklahoma project is required to be recaptured during the first ten years after a project is placed in service, the taxpayer claiming state credits with respect to such project shall also be required to recapture a portion of any state credits authorized by this section. The amount of Oklahoma Affordable

Housing tax credits subject to recapture shall be proportionally equal to the amount of federal low-income housing credits subject to recapture.

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

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

COMMITTEE REPORT BY: COMMITTEE ON FINANCE
February 19, 2013 - DO PASS AS AMENDED