

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1289

By: Mazzei

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 2357.46, which relates to income
9 tax credits for certain expenditures by a contractor;
10 limiting time period during which certain credits are
11 allowed; limiting transferability of certain credits
12 to specified time period; authorizing refund of
credits under specified circumstances; providing for
amount of refund; specifying entities to whom credit
may be refunded and procedures relating thereto;
exempting refund amounts from income tax; defining
term; and providing an effective date.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.46, is
16 amended to read as follows:

17 Section 2357.46. A. Except as otherwise provided by subsection
18 G of this section, for tax years beginning after December 31, 2005,
19 and ending before January 1, 2022, there shall be allowed a credit
20 against the tax imposed by Section 2355 of ~~Title 68 of Oklahoma~~
21 ~~Statutes~~ this title for eligible expenditures incurred by a
22 contractor in the construction of energy efficient residential
23 property of two thousand (2,000) square feet or less. The amount of
24 the credit shall be based upon the following:

1 1. For any eligible energy efficient residential property
2 constructed and certified as forty percent (40%) or more above the
3 International Energy Conservation Code 2003 and any supplement in
4 effect at the time of completion, the amount of the credit shall be
5 equal to the eligible expenses, not to exceed Four Thousand Dollars
6 (\$4,000.00) for the taxpayer who is the contractor; and

7 2. For any eligible energy efficient residential property
8 constructed and certified as between twenty percent (20%) and
9 thirty-nine percent (39%) above the International Energy
10 Conservation Code 2003 and any supplement in effect at the time of
11 completion, the credit shall be equal to the eligible expenditures,
12 not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who
13 is the contractor.

14 B. As used in this section:

15 1. "Eligible expenditure" means any:

- 16 a. energy efficient heating or cooling system,
- 17 b. insulation material or system which is specifically
18 and primarily designed to reduce the heat gain or loss
19 of a residential property when installed in or on such
20 property,
- 21 c. exterior windows, including skylights,
- 22 d. exterior doors, and
- 23 e. any metal roof installed on a residential property,
24 but only if such roof has appropriate pigmented

1 coatings which are specifically and primarily designed
2 to reduce the heat gain of such dwelling unit and
3 which meet Energy Star program requirements;

4 2. "Contractor" means the taxpayer who constructed the
5 residential property or manufactured home, or if more than one
6 taxpayer qualifies as the contractor, the primary contractor; and

7 3. "Eligible energy efficient residential property" means a
8 newly constructed residential property or manufactured home property
9 which is located in the State of Oklahoma and substantially complete
10 after December 31, 2005, and which is two thousand (2,000) square
11 feet or less:

12 a. for the credit provided pursuant to paragraph 1 of
13 subsection A of this section, which is certified by an
14 accredited Residential Energy Services Network
15 Provider using the Home Energy Rating System to have:

16 (1) a level of annual heating and cooling energy
17 consumption which is at least forty percent (40%)
18 below the annual level of heating and cooling
19 energy consumption of a comparable residential
20 property constructed in accordance with the
21 standards of Chapter 4 of the 2003 International
22 Energy Conservation Code, as such code is in
23 effect on the effective date of this act,

1 (2) heating and cooling equipment efficiencies which
2 correspond to the minimum allowed under the
3 regulations established by the Department of
4 Energy pursuant to the National Appliance Energy
5 Conservation Act of 1987 and in effect at the
6 time of construction of the property, and

7 (3) building envelope component improvements which
8 account for at least one-fifth of the reduced
9 annual heating and cooling energy consumption
10 levels,

11 b. for the credit provided pursuant to paragraph 2 of
12 subsection A of this section, which is certified by an
13 accredited Residential Energy Services Network
14 Provider using the Home Energy Rating System to have:

15 (1) a level of annual heating and cooling energy
16 consumption which is between twenty percent (20%)
17 and thirty-nine percent (39%) below the annual
18 level of heating and cooling energy consumption
19 of a comparable residential property constructed
20 in accordance with the standards of Chapter 4 of
21 the 2003 International Energy Conservation Code,
22 as such code is in effect on the effective date
23 of this act,
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- 1 (2) heating and cooling equipment efficiencies which
2 correspond to the minimum allowed under the
3 regulations established by the Department of
4 Energy pursuant to the National Appliance Energy
5 Conservation Act of 1987 and in effect at the
6 time of construction of the property, and
7 (3) building envelope component improvements which
8 account for at least one-third of the reduced
9 annual heating and cooling energy consumption
10 levels.

11 C. The credit provided for in subsection A of this section may
12 only be claimed once for the contractor of any eligible residential
13 energy efficient property during the taxable year when the property
14 is substantially complete.

15 D. If the credit allowed pursuant to this section exceeds the
16 amount of income taxes due or if there are no state income taxes due
17 on the income of the taxpayer, the amount of credit allowed but not
18 used in any taxable year may be carried forward as a credit against
19 subsequent income tax liability for a period not exceeding four (4)
20 years following the qualified expenditures.

21 E. ~~For 1. For~~ credits earned on or after ~~the effective date of~~
22 ~~this act~~ September 22, 2006, and before January 1, 2015, the credits
23 authorized by this section shall be freely transferable to
24 subsequent transferees.

1 2. For credits generated, but not used, on or after January 1,
2 2015, the Oklahoma Tax Commission shall refund, at the taxpayer's
3 election, directly to the taxpayer eighty-five percent (85%) of the
4 face amount of such credits. The direct refund of the credits
5 pursuant to this paragraph shall be available to all taxpayers,
6 including, without limitation, pass-through entities and taxpayers
7 subject to Section 2355 of this title. The amount of any direct
8 refund of credits actually received at the eighty-five percent (85%)
9 level by the taxpayer pursuant to this paragraph shall not be
10 subject to the tax imposed by Section 2355 of this title. If the
11 pass-through entity does not file a claim for a direct refund, the
12 pass-through entity shall allocate the credit to one or more of the
13 shareholders, partners or members of the pass-through entity;
14 provided, the total of all credits refunded or allocated shall not
15 exceed the amount of the credit or refund to which the pass-through
16 entity is entitled. For the purposes of this paragraph, "pass-
17 through entity" means a corporation that for the applicable tax year
18 is treated as an S corporation under the Internal Revenue Code of
19 1986, as amended, general partnership, limited partnership, limited
20 liability partnership, trust or limited liability company that for
21 the applicable tax year is not taxed as a corporation for federal
22 income tax purposes.

23 F. The Oklahoma Tax Commission shall promulgate rules necessary
24 to implement this act.

1 G. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, 2010 for
4 which the credit would otherwise be allowable. The provisions of
5 this subsection shall cease to be operative on July 1, 2012.
6 Beginning July 1, 2012, the credit authorized by this section may be
7 claimed for any event, transaction, investment, expenditure or other
8 act occurring on or after July 1, 2012, according to the provisions
9 of this section.

10 SECTION 2. This act shall become effective November 1, 2014.

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