

1 STATE OF OKLAHOMA

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

3 SENATE BILL 617

By: Jolley

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5  
6 AS INTRODUCED

7 An Act relating to tax credits; providing short  
8 title; defining terms; providing state tax credit for  
9 certain taxpayers under specified circumstances;  
10 setting amount of credit subject to specified limits;  
11 limiting total credits issued; authorizing use of  
12 credits for certain payments; limiting use of credit  
13 for certain circumstances; providing for carry  
14 forward or carry back of unused credits; requiring  
15 certain documents to be submitted; providing for  
16 recapture of credits under specified circumstances;  
17 authorizing Oklahoma Housing Finance Agency and  
18 Oklahoma Tax Commission to require documentation;  
19 providing for codification; and providing an  
20 effective date.

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

24 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 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;

1           2. "Eligibility statement" means a statement authorized and  
2 issued by the Oklahoma Housing Finance Agency certifying that a  
3 given project qualifies for the Oklahoma state affordable housing  
4 tax credit authorized by this section. The 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 Oklahoma state affordable housing  
8 tax credits allocated to a qualified Oklahoma project. The Housing  
9 Finance Agency shall only authorize the tax credits created by this  
10 section to qualified Oklahoma projects which are placed in service  
11 after December 31, 2013, and which begin generating credits during  
12 calendar year 2014 or any calendar year thereafter;

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

16           4. "Oklahoma state affordable housing tax credit" means the tax  
17 credit created by this section;

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

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

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

6 8. "Taxpayer" means a person, firm or corporation subject to  
7 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes  
8 or an insurance company subject to the tax imposed by Section 624 or  
9 628 of Title 36 of the Oklahoma Statutes or other financial  
10 institution subject to the tax imposed by Section 2370 of Title 68  
11 of the Oklahoma Statutes.

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

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

3 E. An insurance company claiming a credit against state premium  
4 tax or retaliatory tax or any other tax imposed by Section 624 or  
5 628 of Title 36 of the Oklahoma Statutes shall not be required to  
6 pay any additional retaliatory tax under Section 628 of Title 36 of  
7 the Oklahoma Statutes as a result of claiming the credit. The  
8 credit may fully offset any retaliatory tax imposed by Section 628  
9 of Title 36 of the Oklahoma Statutes.

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

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

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

23 I. If under Section 42 of the 1986 Internal Revenue Code, as  
24 amended, a portion of any federal low-income housing credits taken

1 on a qualified Oklahoma project is required to be recaptured during  
2 the first ten (10) years after a project is placed in service, the  
3 taxpayer claiming state credits with respect to such project shall  
4 also be required to recapture a portion of any state credits  
5 authorized by this section. The amount of Oklahoma state affordable  
6 housing tax credits subject to recapture shall be proportionally  
7 equal to the amount of federal low-income housing credits subject to  
8 recapture.

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

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

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