

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1438

6 By: Jech and Standridge

7 COMMITTEE SUBSTITUTE

8 An Act relating to tax credits; amending Section 1,
9 Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2015, Section
10 2357.403), which relates to the Oklahoma Affordable
11 Housing Act; modifying value of credits for certain
12 projects for specified time periods; providing an
13 effective date; and delcaring an emergency.

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

15 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.
16 2014 (68 O.S. Supp. 2015, Section 2357.403), is amended to read as
17 follows:

18 Section 2357.403. A. This act shall be known and may be cited
19 as the "Oklahoma 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 allocates credits pursuant to this section;

23 2. "Eligibility statement" means a statement authorized and
24 issued by the Oklahoma Housing Finance Agency certifying that a
given project qualifies for the Oklahoma Affordable Housing Tax

1 Credit authorized by this section. The Oklahoma Housing Finance
2 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter
3 36, Affordable Housing Tax Credit Program Rules, shall promulgate
4 rules establishing criteria upon which the eligibility statements
5 will be issued. The eligibility statement shall specify the amount
6 of Oklahoma Affordable Housing Tax Credits allocated to a qualified
7 project. The Oklahoma Housing Finance Agency shall only authorize
8 the tax credits created by this section to qualified projects which
9 are placed in service after July 1, 2015, but which shall not be
10 used to reduce tax liability accruing prior to January 1, 2016;

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

14 4. "Oklahoma Affordable Housing Tax Credit" means the tax credit
15 created by this section;

16 5. "Qualified project" means a qualified low-income building as
17 that term is defined in Section 42 of the Internal Revenue Code of
18 1986, as amended, which is located in this state in a county with a
19 population of less than one hundred fifty thousand (150,000)
20 according to the latest Federal Decennial Census; and

21 6. "Taxpayer" means a person, firm or corporation subject to the
22 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or
23 an insurance company subject to the tax imposed by Section 624 or
24 628 of Title 36 of the Oklahoma Statutes or other financial

1 institution subject to the tax imposed by Section 2370 of Title 68
2 of the Oklahoma Statutes.

3 C. For qualified projects placed in service after July 1, 2015,
4 the amount of state tax credits created by this section which are
5 allocated to a project shall be equal to that of the federal low-
6 income housing tax credits for a qualified project. The total
7 Oklahoma Affordable Housing Tax Credits allocated to all qualified
8 projects ~~for an allocation year~~ shall not exceed ~~Four Million Dollars~~
9 ~~(\$4,000,000.00)~~;

10 1. Two Million Dollars (\$2,000,000.00) for projects placed in
11 service before July 1, 2016;

12 2. One Million Five Hundred Thousand Dollars (\$1,500,000.00) for
13 projects placed into service on or after July 1, 2016, and before
14 January 1, 2017; and

15 3. Three Million Dollars (\$3,000,000.00) for projects placed
16 into service during any allocation year which begins or after January
17 1, 2017.

18 For purposes of this section, the "credit period" shall mean the
19 period of ten (10) taxable years and "placed in service" shall have
20 the same meaning as is applicable under the federal credit program.

21 D. A taxpayer owning an interest in an investment in a qualified
22 project shall be allowed Oklahoma Affordable Housing Tax Credits
23 under this section for tax years beginning on or after January 1,
24 2016, if the Oklahoma Housing Finance Agency issues an eligibility

1 statement for such project, which tax credit shall be allocated
2 among some or all of the partners, members or shareholders of the
3 taxpayer owning such interest in any manner agreed to by such
4 partners, members or shareholders. Such taxpayer may assign its
5 interest in the investment.

6 E. An insurance company claiming a credit against state premium
7 tax or retaliatory tax or any other tax imposed by Section 624 or 628
8 of Title 36 of the Oklahoma Statutes shall not be required to pay
9 any additional retaliatory tax under Section 628 of Title 36 of the
10 Oklahoma Statutes as a result of claiming the credit. The credit
11 may fully offset any retaliatory tax imposed by Section 628 of Title
12 36 of the Oklahoma Statutes.

13 F. The credit authorized by this section shall not be used to
14 reduce the tax liability of the taxpayer to less than zero (\$0.00).

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

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

24

1 I. If under Section 42 of the Internal Revenue Code of 1986, as
2 amended, a portion of any federal low-income housing credits taken on
3 a qualified project is required to be recaptured during the first ten
4 (10) years after a project is placed in service, the taxpayer
5 claiming Oklahoma Affordable Housing Tax Credits with respect to such
6 project shall also be required to recapture a portion of such
7 credits. The amount of Oklahoma Affordable Housing Tax Credits
8 subject to recapture shall be proportionally equal to the amount of
9 federal low-income housing credits subject to recapture.

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

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

18 SECTION 2. This act shall become effective July 1, 2016.

19 SECTION 3. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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