

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1555

By: Sears

4
5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 2357.41, which relates to tax
9 credits for certain qualified rehabilitation
10 expenditures; amending 68 O.S. 2011, Section 2357.46,
11 which relates to tax credits for certain energy
12 efficient construction techniques; imposing limit on
13 taxable years for which credits available; repealing
14 68 O.S. 2011, Sections 1370.3, which relates to a tax
15 credit for certain persons based on sales tax
16 payment; and providing effective dates.

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

18 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.41, is
19 amended to read as follows:

20 Section 2357.41 A. Except as otherwise provided by subsection
21 I of this section, for tax years beginning after December 31, 2000,
22 and ending not later than June 30, 2018, there shall be allowed a
23 credit against the tax imposed by Sections 2355 and 2370 of this
24 title or that portion of the tax imposed by Section 624 or 628 of
Title 36 of the Oklahoma Statutes that would otherwise have been
apportioned to the General Revenue Fund for qualified rehabilitation

1 expenditures incurred in connection with any certified historic
2 hotel or historic newspaper plant building located in an increment
3 or incentive district created pursuant to the Local Development Act
4 or for qualified rehabilitation expenditures incurred after January
5 1, 2006, but not later than June 30, 2018, in connection with any
6 certified historic structure.

7 B. The amount of the credit shall be one hundred percent (100%)
8 of the federal rehabilitation credit provided for in Section 47 of
9 Title 26 of the United States Code. The credit authorized by this
10 section may be claimed at any time after the relevant local
11 governmental body responsible for doing so issues a certificate of
12 occupancy or other document that is a precondition for the
13 applicable use of the building or structure that is the basis upon
14 which the credit authorized by this section is claimed.

15 C. All requirements with respect to qualification for the
16 credit authorized by Section 47 of Title 26 of the United States
17 Code shall be applicable to the credit authorized by this section.

18 D. If the credit allowed pursuant to this section exceeds the
19 amount of income taxes due or if there are no state income taxes due
20 on the income of the taxpayer, the amount of the credit allowed but
21 not used in any taxable year may be carried forward as a credit
22 against subsequent income tax liability for a period not exceeding
23 ten (10) years following the qualified expenditures.
24

1 E. All rehabilitation work to which the credit may be applied
2 shall be reviewed by the State Historic Preservation Office which
3 will in turn forward the information to the National Park Service
4 for certification in accordance with 36 C.F.R., Part 67. A
5 certified historic structure may be rehabilitated for any lawful use
6 or uses, including without limitation mixed uses and still retain
7 eligibility for the credit provided for in this section.

8 F. The amount of the credit allowed for any credit claimed for
9 a certified historic hotel or historic newspaper plant building or
10 any certified historic structure, but not used, shall be freely
11 transferable, in whole or in part, to subsequent transferees at any
12 time during the five (5) years following the year of qualification.
13 Any person to whom or to which a tax credit is transferred shall
14 have only such rights to claim and use the credit under the terms
15 that would have applied to the entity by whom or by which the tax
16 credit was transferred. The provisions of this subsection shall not
17 limit the ability of a tax credit transferee to reduce the tax
18 liability of the transferee regardless of the actual tax liability
19 of the tax credit transferor for the relevant taxable period. The
20 transferor of the credit and the transferee shall jointly file a
21 copy of the written credit transfer agreement with the Oklahoma Tax
22 Commission within thirty (30) days of the transfer. Such filing of
23 the written credit transfer agreement with the Oklahoma Tax
24 Commission shall perfect such transfer. The written agreement shall

1 contain the name, address and taxpayer identification number of the
2 parties to the transfer, the amount of credit being transferred, the
3 year the credit was originally allowed to the transferor, the tax
4 year or years for which the credit may be claimed, and a
5 representation by the transferor that the transferor has neither
6 claimed for its own behalf nor conveyed such credits to any other
7 transferee. The Tax Commission shall develop a standard form for
8 use by subsequent transferees of the credit demonstrating
9 eligibility for the transferee to reduce its applicable tax
10 liabilities resulting from ownership of the credit. The Tax
11 Commission shall develop a system to record and track the transfers
12 of the credit and certify the ownership of the credit and may
13 promulgate rules to permit verification of the validity and
14 timeliness of a tax credit claimed upon a tax return pursuant to
15 this subsection but shall not promulgate any rules which unduly
16 restrict or hinder the transfers of such tax credit.

17 G. Notwithstanding any other provisions in this section, on or
18 after January 1, 2009, if a credit allowed pursuant to this section
19 which has been transferred is subsequently reduced as the result of
20 an adjustment by the Internal Revenue Service, Tax Commission, or
21 any other applicable government agency, only the transferor
22 originally allowed the credit and not any subsequent transferee of
23 the credit, shall be held liable to repay any amount of disallowed
24 credit.

1 H. As used in this section:

2 1. "Certified historic hotel or historic newspaper plant
3 building" means a hotel or newspaper plant building that is listed
4 on the National Register of Historic Places within thirty (30)
5 months of taking the credit pursuant to this section.

6 2. "Certified historic structure" means a building that is
7 listed on the National Register of Historic Places within thirty
8 (30) months of taking the credit pursuant to this section or a
9 building located in Oklahoma which is certified by the State
10 Historic Preservation Office as contributing to the historic
11 significance of a certified historic district listed on the National
12 Register of Historic Places, or a local district that has been
13 certified by the State Historic Preservation Office as eligible for
14 listing in the National Register of Historic Places; and

15 3. "Qualified rehabilitation expenditures" means capital
16 expenditures that qualify for the federal rehabilitation credit
17 provided in Section 47 of Title 26 of the United States Code and
18 that were paid after December 31, 2000. Qualified rehabilitation
19 expenditures do not include capital expenditures for nonhistoric
20 additions except an addition that is required by state or federal
21 regulations that relate to safety or accessibility. In addition,
22 qualified rehabilitation expenditures do not include expenditures
23 related to the cost of acquisition of the property.
24

1 I. 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 until the provisions
5 of 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, 2010, according to the provisions
9 of this section. Any tax credits which accrue during the period of
10 July 1, 2010, through June 30, 2012, may not be claimed for any
11 period prior to the taxable year beginning January 1, 2012. No
12 credits which accrue during the period of July 1, 2010, through June
13 30, 2012, may be used to file an amended tax return for any taxable
14 year prior to the taxable year beginning January 1, 2012.

15 SECTION 2. 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 not later than June 30, 2018, there shall be allowed a
20 credit against the tax imposed by Section 2355 of Title 68 of
21 Oklahoma Statutes for eligible expenditures incurred by a contractor
22 in the construction of energy efficient residential property of two
23 thousand (2,000) square feet or less. The amount of the credit
24 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,
24

- 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,
24

- 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 credits earned on or after the effective date of this
22 act, the credits authorized by this section shall be freely
23 transferable to subsequent transferees.
24

1 F. The Oklahoma Tax Commission shall promulgate rules necessary
2 to implement this act.

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

12 SECTION 3. REPEALER 68 O.S. 2011, Section 1370.3, is
13 hereby repealed.

14 SECTION 4. Section 3 of this act shall become effective
15 November 1, 2015.

16 SECTION 5. Sections 1 and 2 of this act shall become effective
17 July 1, 2018.

18
19 55-1-5311 MAH 01/18/15
20
21
22
23
24