

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2832

By: Young

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; enacting the  
8 First Chance Business Owner Opportunity Incentive Act  
9 of 2018; defining terms; providing for income tax  
10 credit; providing for credit against certain in lieu  
11 tax; specifying amount of credit; providing for tax  
12 credit based upon certain interest income; providing  
13 for tax credit based upon certain losses; prohibiting  
14 tax credit from reducing tax liability to less than  
15 zero; authorizing carryover of tax credit;  
16 prohibiting transferability of tax credit; providing  
17 for termination of tax credit authorization;  
18 providing for compliance with certain statutory  
19 requirement related to measurable goals; providing  
20 for codification; providing for noncodification; and  
21 providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law not to be  
24 codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "First Chance  
Business Owner Opportunity Incentive Act of 2018".

25 SECTION 2. NEW LAW A new section of law to be codified  
26 in the Oklahoma Statutes as Section 2357.701 of Title 68, unless  
27 there is created a duplication in numbering, reads as follows:

1       A. As used in this section:

2       1. "Business" means any lawful for-profit activity as  
3 authorized by the laws of the State of Oklahoma;

4       2. "Financial institution" means either a bank or a credit  
5 union whether chartered pursuant to federal or state law;

6       3. "Loan participation agreement" means a contract to which two  
7 or more financial institutions are parties and pursuant to which  
8 monies are loaned to a qualified start-up business and no single  
9 financial institution lends one hundred percent (100%) of the funds  
10 made available to the qualified start-up business;

11       4. "Loan syndication agreement" means any contract involving  
12 two or more financial institutions in which the risk of loss related  
13 to lending activity in which a qualified start-up business is the  
14 borrower, alone or together with credit guaranties of any kind  
15 executed by the principals of the business enterprise, is shared  
16 among such institutions;

17       5. "Qualified interest income" means interest received by a  
18 financial institution from a qualified start-up business pursuant to  
19 a loan participation agreement or loan syndication agreement entered  
20 into directly between the qualified start-up and the financial  
21 institution or pursuant to an agreement between two or more  
22 financial institutions which provide funds to the business for its  
23 capitalization or operations;

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1       6. "Qualified loan participation loss" means a financial  
2 decision by a financial institution to reflect in its books and  
3 records, whether required by applicable federal or state law  
4 regulating the business of the financial institution or not, that  
5 some part or all of an amount of money loaned to a qualified small  
6 business will not be repaid;

7       7. "Qualified start-up business" means a business enterprise,  
8 whether a sole proprietorship, general partnership, limited  
9 partnership, corporation, limited liability company or other  
10 lawfully recognized business entity, engaged in lawful business  
11 activity for profit which:

12           a. has not been engaged in the business activity within  
13           the State of Oklahoma for which loan proceeds are  
14           provided by a financial institution for a period of  
15           more than five (5) years as of the date that the  
16           qualified start-up business or its principals become  
17           legally obligated for repayment of a loan amount,

18           b. has a total owner equity amount as reflected by an  
19           audited financial statement as of the last date of the  
20           month prior to the date as of which loan proceeds are  
21           made available to the qualified start-up business by a  
22           financial institution not in excess of One Million  
23           Dollars (\$1,000,000.00),

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- 1           c.    has a payroll for jobs located in Oklahoma not in  
2                    excess of One Million Dollars (\$1,000,000.00),  
3           d.    has not had within the five-year period of time prior  
4                    to the date any loan proceeds are made available to it  
5                    gross revenues in excess of Five Million Dollars  
6                    (\$5,000,000.00), and  
7           e.    is not a subsidiary entity of a parent business entity  
8                    which would not qualify on its own as a qualified  
9                    start-up company pursuant to the requirements of this  
10                  paragraph.

11           B.   For taxable years beginning after December 31, 2018, subject  
12 to the limitations prescribed by subsection C of this section, there  
13 shall be allowed a credit against the tax imposed pursuant to  
14 Section 2355 or Section 2370 of Title 68 of the Oklahoma Statutes in  
15 an amount equal to twenty-five percent (25%) of:

- 16           1.   Qualified interest income; and  
17           2.   A qualified loan participation loss.

18           C.   The amount of interest income received by one or more  
19 financial institutions for which the credit authorized by paragraph  
20 1 of subsection B of this section may be claimed shall not exceed  
21 One Million Dollars (\$1,000,000.00) with respect to any loan or  
22 loans made to the qualified start-up business by such financial  
23 institution. If the interest income is received by more than one  
24 financial institution, the credit may only be claimed with respect

1 to the interest income allocated to each financial institution for  
2 amounts loaned to one qualified start-up business.

3 D. The amount of qualified loan participation losses for which  
4 a single financial institution may claim the credit authorized by  
5 paragraph 2 of subsection B of this section shall not exceed One  
6 Million Dollars (\$1,000,000.00). If the loan loss is incurred by  
7 more than one financial institution, the credit may only be claimed  
8 with respect to the loan loss allocated to each financial  
9 institution for amounts loaned to one qualified start-up business  
10 enterprise.

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

13 F. The credit authorized by this section to the extent not used  
14 to reduce a tax liability amount may be carried over, in order, to  
15 each of the five (5) subsequent tax years. The provisions of this  
16 subsection shall not be limited by the provisions of subsection H of  
17 this section.

18 G. The credit authorized by this section shall not be  
19 transferable.

20 H. The provisions of this section shall terminate by operation  
21 of law and shall have no force or effect for any event, transaction  
22 or occurrence that would otherwise qualify for the credit authorized  
23 by this section after December 31, 2023.

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1 I. In compliance with Section 46A of Title 62 of the Oklahoma  
2 Statutes, the Legislature finds that the measurable goals of the  
3 incentive authorized by this act are improved capital access for  
4 start-up business enterprises, efficient use of available capital by  
5 financial institutions, improved capital investment by business  
6 entities within the state, job creation and retention and the  
7 development of a positive entrepreneurial business environment in  
8 the State of Oklahoma.

9 SECTION 3. This act shall become effective January 1, 2019.

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