STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 953 By: Griffin of the Senate

and

Wallace of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to tax credits; amending Section 1, Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2017, Section 2357.403), which relates to the Oklahoma Affordable Housing Act; modifying definition; limiting amount of credits which may be allocated to specified projects; modifying carryforward period; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2017, Section 2357.403), is amended to read as follows:

Section 2357.403. A. This act shall be known and 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 allocates credits pursuant to this section;

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

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

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

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

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

C. For qualified projects placed in service after July 1, 2015, the amount of state tax credits created by this section which are allocated to a project shall be equal to that of the federal low-income housing tax credits for a qualified project. The total Oklahoma Affordable Housing Tax Credits allocated to all qualified projects for an allocation year shall not exceed Four Million Dollars ($4,000,000.00); provided, no more than Two Million Dollars ($2,000,000.00) shall be allocated to projects financed with tax-exempt bonds. For purposes of this section, the "credit period" shall mean the period of ten (10) taxable years and "placed in service" shall have the same meaning as is applicable under the federal credit program.

D. A taxpayer owning an interest in an investment in a qualified project shall be allowed Oklahoma Affordable Housing Tax Credits under this section for tax years beginning on or after January 1, 2016, if the Oklahoma Housing Finance Agency issues an eligibility statement for such project, which tax credit shall be allocated among some or all of the partners, members or shareholders of the taxpayer owning such interest in any manner agreed to by such partners, members or shareholders. Such taxpayer may assign its interest in the investment.

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

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

G. Any credit claimed but not used in a taxable year which begins on or after January 1, 2019, may be carried forward to each of the ~~five (5)~~ two (2) subsequent taxable years.

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

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

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

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

SECTION 2. This act shall become effective January 1, 2019.

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