

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2352

By: Osborn (Leslie) and Wallace
of the House

and

David and Fields of the
Senate

10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2011, Section 2357.41, which relates to tax
13 credits for certain qualified rehabilitation
14 expenditures; modifying tax years for which tax
15 credit may be claimed; modifying amount of tax
16 credit; providing for cap amount on allowable tax
17 credits; authorizing administrative rules; and
18 providing an effective date.

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

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

21 Section 2357.41 A. Except as otherwise provided by subsection
22 I of this section, for tax years beginning after December 31, ~~2000~~
23 2017, and ending not later than January 1, 2021, there shall be
24 allowed a credit against the tax imposed by Sections 2355 and 2370

1 of this title or that portion of the tax imposed by Section 624 or
2 628 of Title 36 of the Oklahoma Statutes that would otherwise have
3 been apportioned to the General Revenue Fund for qualified
4 rehabilitation expenditures incurred in connection with any
5 certified historic hotel or historic newspaper plant building
6 located in an increment or incentive district created pursuant to
7 the Local Development Act or for qualified rehabilitation
8 expenditures incurred after January 1, 2006, in connection with any
9 certified historic structure.

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

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

21 D. If the credit allowed pursuant to this section exceeds the
22 amount of income taxes due or if there are no state income taxes due
23 on the income of the taxpayer, the amount of the credit allowed but
24 not used in any taxable year may be carried forward as a credit

1 against subsequent income tax liability for a period not exceeding
2 ten (10) years following the qualified expenditures.

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

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

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

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

1 the credit, shall be held liable to repay any amount of disallowed
2 credit.

3 H. As used in this section:

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

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

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

1 qualified rehabilitation expenditures do not include expenditures
2 related to the cost of acquisition of the property.

3 I. 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 until the provisions
7 of 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, 2010, according to the provisions
11 of this section. Any tax credits which accrue during the period of
12 July 1, 2010, through June 30, 2012, may not be claimed for any
13 period prior to the taxable year beginning January 1, 2012. No
14 credits which accrue during the period of July 1, 2010, through June
15 30, 2012, may be used to file an amended tax return for any taxable
16 year prior to the taxable year beginning January 1, 2012.

17 J. For credits earned on or after January 1, 2018, the total
18 amount of all allowed claims used to offset tax shall not exceed
19 Seven Million Dollars (\$7,000,000.00) in fiscal year 2019 and each
20 fiscal year thereafter. The Oklahoma Tax Commission shall have
21 specific authority to adopt administrative rules in order to
22 implement the provisions of this subsection.
23
24

SECTION 2. This act shall become effective January 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
AND BUDGET, dated 04/27/2017 - DO PASS, As Amended.