

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1608

6 By: Jolley and Treat of the  
7 Senate

8 and

9 Sears and Casey of the  
10 House

11 COMMITTEE SUBSTITUTE

12 An Act relating to tax credits; amending Section 1,  
13 Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2015, Section  
14 2357.403), which relates the Oklahoma Affordable  
15 Housing Act; modifying definition; limiting time  
16 period during which credits are allowed; modifying  
17 total credits allocated for specified time periods;  
18 and providing an effective date.

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

20 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.  
21 2014 (68 O.S. Supp. 2015, Section 2357.403), is amended to read as  
22 follows:

23 Section 2357.403. A. This act shall be known and may be cited  
24 as the "Oklahoma Affordable Housing Act".

B. As used in this section:

1           1. "Allocation year" means the calendar year for which the  
2 Oklahoma Housing Finance Agency allocates credits pursuant to this  
3 section;

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

17           3. "Federal low-income housing tax credit" means the federal tax  
18 credit as provided in Section 42 of the Internal Revenue Code of  
19 1986, as amended;

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

22           5. "Qualified project" means a qualified low-income building as  
23 that term is defined in Section 42 of the Internal Revenue Code of  
24 1986, as amended, which is located in this state in a county with a

1 population of less than one hundred fifty thousand (150,000)  
2 according to the latest Federal Decennial Census; and

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

9 C. For qualified projects placed in service after July 1, 2015,  
10 the amount of state tax credits created by this section which are  
11 allocated to a project shall be equal to that of the federal low-  
12 income housing tax credits for a qualified project. ~~The~~ Prior to  
13 January 1, 2017, the total Oklahoma Affordable Housing Tax Credits  
14 allocated to all qualified projects for an allocation year shall not  
15 exceed Four Million Dollars (\$4,000,000.00). On or after January 1,  
16 2017, the total Oklahoma Affordable Housing Tax Credits allocated to  
17 all qualified projects for an allocation year shall not exceed Three  
18 Million Dollars (\$3,000,000.00). For purposes of this section, the  
19 "credit period" shall mean the period of ten (10) taxable years and  
20 "placed in service" shall have the same meaning as is applicable  
21 under the federal credit program.

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

1 2016, and before January 1, 2021, if the Oklahoma Housing Finance  
2 Agency issues an eligibility statement for such project, which tax  
3 credit shall be allocated among some or all of the partners, members  
4 or shareholders of the taxpayer owning such interest in any manner  
5 agreed to by such partners, members or shareholders. Such taxpayer  
6 may assign its interest in the investment.

7 E. An insurance company claiming a credit against state premium  
8 tax or retaliatory tax or any other tax imposed by Section 624 or 628  
9 of Title 36 of the Oklahoma Statutes shall not be required to pay  
10 any additional retaliatory tax under Section 628 of Title 36 of the  
11 Oklahoma Statutes as a result of claiming the credit. The credit  
12 may fully offset any retaliatory tax imposed by Section 628 of Title  
13 36 of the Oklahoma Statutes.

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

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

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

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 November 1, 2016.

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