

1 STATE OF OKLAHOMA

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

3 SENATE BILL 915

By: Pemberton

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6 AS INTRODUCED

7 An Act relating to tax credits; amending 68 O.S.
8 2011, Section 2357.41, which relates to credits for
9 qualified rehabilitation expenditures on certain
historic property; limiting transferability of
specified credits; and providing an effective date.

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

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

15 Section 2357.41. A. Except as otherwise provided by subsection
16 I of this section, for tax years beginning after December 31, 2000,
17 there shall be allowed a credit against the tax imposed by Sections
18 2355 and 2370 of this title or that portion of the tax imposed by
19 Section 624 or 628 of Title 36 of the Oklahoma Statutes that would
20 otherwise have been apportioned to the General Revenue Fund for
21 qualified rehabilitation expenditures incurred in connection with
22 any certified historic hotel or historic newspaper plant building
23 located in an increment or incentive district created pursuant to
24 the Local Development Act or for qualified rehabilitation

1 expenditures incurred after January 1, 2006, in connection with any
2 certified historic structure.

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

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

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

20 E. All rehabilitation work to which the credit may be applied
21 shall be reviewed by the State Historic Preservation Office which
22 will in turn forward the information to the National Park Service
23 for certification in accordance with 36 C.F.R., Part 67. A
24 certified historic structure may be rehabilitated for any lawful use

1 or uses, including without limitation mixed uses and still retain
2 eligibility for the credit provided for in this section.

3 F. The For credits generated prior to January 1, 2018, the
4 amount of the credit allowed for any credit claimed for a certified
5 historic hotel or historic newspaper plant building or any certified
6 historic structure, but not used, shall be freely transferable, in
7 whole or in part, to subsequent transferees at any time during the
8 five (5) years following the year of qualification. Any person to
9 whom or to which a tax credit is transferred shall have only such
10 rights to claim and use the credit under the terms that would have
11 applied to the entity by whom or by which the tax credit was
12 transferred. The provisions of this subsection shall not limit the
13 ability of a tax credit transferee to reduce the tax liability of
14 the transferee regardless of the actual tax liability of the tax
15 credit transferor for the relevant taxable period. The transferor
16 of the credit and the transferee shall jointly file a copy of the
17 written credit transfer agreement with the Oklahoma Tax Commission
18 within thirty (30) days of the transfer. Such filing of the written
19 credit transfer agreement with the Oklahoma Tax Commission shall
20 perfect such transfer. The written agreement shall contain the
21 name, address and taxpayer identification number of the parties to
22 the transfer, the amount of credit being transferred, the year the
23 credit was originally allowed to the transferor, the tax year or
24 years for which the credit may be claimed, and a representation by

1 the transferor that the transferor has neither claimed for its own
2 behalf nor conveyed such credits to any other transferee. The Tax
3 Commission shall develop a standard form for use by subsequent
4 transferees of the credit demonstrating eligibility for the
5 transferee to reduce its applicable tax liabilities resulting from
6 ownership of the credit. The Tax Commission shall develop a system
7 to record and track the transfers of the credit and certify the
8 ownership of the credit and may promulgate rules to permit
9 verification of the validity and timeliness of a tax credit claimed
10 upon a tax return pursuant to this subsection but shall not
11 promulgate any rules which unduly restrict or hinder the transfers
12 of such tax credit.

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

21 H. As used in this section:

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

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

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

21 I. No credit otherwise authorized by the provisions of this
22 section may be claimed for any event, transaction, investment,
23 expenditure or other act occurring on or after July 1, 2010, for
24 which the credit would otherwise be allowable until the provisions

1 of this subsection shall cease to be operative on July 1, 2012.
2 Beginning July 1, 2012, the credit authorized by this section may be
3 claimed for any event, transaction, investment, expenditure or other
4 act occurring on or after July 1, 2010, according to the provisions
5 of this section. Any tax credits which accrue during the period of
6 July 1, 2010, through June 30, 2012, may not be claimed for any
7 period prior to the taxable year beginning January 1, 2012. No
8 credits which accrue during the period of July 1, 2010, through June
9 30, 2012, may be used to file an amended tax return for any taxable
10 year prior to the taxable year beginning January 1, 2012.

11 SECTION 2. This act shall become effective November 1, 2018.

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