

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 953

By: Griffin of the Senate

and

Wallace of the House

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9 COMMITTEE SUBSTITUTE

10 [ tax credits - Oklahoma Affordable Housing Act -  
11 definition - carryforward period - effective date ]  
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14 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

15 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.  
16 2014 (68 O.S. Supp. 2017, Section 2357.403), is amended to read as  
17 follows:

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

20 B. As used in this section:

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

23 2. "Eligibility statement" means a statement authorized and  
24 issued by the Oklahoma Housing Finance Agency certifying that a

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

12 3. "Federal low-income housing tax credit" means the federal tax  
13 credit as provided in Section 42 of the Internal Revenue Code of  
14 1986, as amended;

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

17 5. "Qualified project" means a qualified low-income building as  
18 that term is defined in Section 42 of the Internal Revenue Code of  
19 1986, as amended, which is located in this state in a county with a  
20 population of less than one hundred fifty thousand (150,000)  
21 according to the latest Federal Decennial Census; and

22 6. "Taxpayer" means a person, firm or corporation subject to the  
23 tax imposed by Section 2355 of ~~Title 68~~ this title of the Oklahoma  
24 Statutes or an insurance company subject to the tax imposed by

1 Section 624 or 628 of Title 36 of the Oklahoma Statutes or other  
2 financial institution subject to the tax imposed by Section 2370 of  
3 ~~Title 68~~ this title of the Oklahoma Statutes.

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

14 D. A taxpayer owning an interest in an investment in a qualified  
15 project shall be allowed Oklahoma Affordable Housing Tax Credits  
16 under this section for tax years beginning on or after January 1,  
17 2016, if the Oklahoma Housing Finance Agency issues an eligibility  
18 statement for such project, which tax credit shall be allocated  
19 among some or all of the partners, members or shareholders of the  
20 taxpayer owning such interest in any manner agreed to by such  
21 partners, members or shareholders. Such taxpayer may assign its  
22 interest in the investment.

23 E. An insurance company claiming a credit against state premium  
24 tax or retaliatory tax or any other tax imposed by Section 624 or 628

1 of Title 36 of the Oklahoma Statutes shall not be required to pay  
2 any additional retaliatory tax under Section 628 of Title 36 of the  
3 Oklahoma Statutes as a result of claiming the credit. The credit  
4 may fully offset any retaliatory tax imposed by Section 628 of Title  
5 36 of the Oklahoma Statutes.

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

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

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

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

1 subject to recapture shall be proportionally equal to the amount of  
2 federal low-income housing credits subject to recapture.

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

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

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

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