

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 953 By: Griffin of the Senate  
3 and  
4 Wallace of the House  
5  
6

7 An Act relating to tax credits; amending Section 1,  
8 Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2017, Section  
9 2357.403), which relates to the Oklahoma Affordable  
10 Housing Act; modifying definition; modifying  
11 carryforward period; and providing an effective date.

10

11

12 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill  
13 and insert

13

14 "[ tax credits - Oklahoma Affordable Housing Act -  
15 definition - carryforward period - effective date ]

16

17

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

19 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.  
20 2014 (68 O.S. Supp. 2017, Section 2357.403), is amended to read as  
21 follows:

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

24 B. As used in this section:

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

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

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

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

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

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 total  
13 Oklahoma Affordable Housing Tax Credits allocated to all qualified  
14 projects for an allocation year shall not exceed Four Million Dollars  
15 (\$4,000,000.00). For purposes of this section, the "credit period"  
16 shall mean the period of ten (10) taxable years and "placed in  
17 service" shall have the same meaning as is applicable under the  
18 federal credit program.

19 D. A taxpayer owning an interest in an investment in a qualified  
20 project shall be allowed Oklahoma Affordable Housing Tax Credits  
21 under this section for tax years beginning on or after January 1,  
22 2016, if the Oklahoma Housing Finance Agency issues an eligibility  
23 statement for such project, which tax credit shall be allocated  
24 among some or all of the partners, members or shareholders of the

1 taxpayer owning such interest in any manner agreed to by such  
2 partners, members or shareholders. Such taxpayer may assign its  
3 interest in the investment.

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

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

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

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

23 I. If under Section 42 of the Internal Revenue Code of 1986, as  
24 amended, a portion of any federal low-income housing credits taken on

1 a qualified project is required to be recaptured during the first ten  
2 (10) years after a project is placed in service, the taxpayer  
3 claiming Oklahoma Affordable Housing Tax Credits with respect to such  
4 project shall also be required to recapture a portion of such  
5 credits. The amount of Oklahoma Affordable Housing Tax Credits  
6 subject to recapture shall be proportionally equal to the amount of  
7 federal low-income housing credits subject to recapture.

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

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

16 SECTION 2. This act shall become effective January 1, 2019."  
17  
18  
19  
20  
21  
22  
23  
24

1 Passed the House of Representatives the 24th day of April, 2018.

2  
3  
4 Presiding Officer of the House of  
Representatives  
5

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2018.

7  
8  
9 Presiding Officer of the Senate  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 ENGROSSED SENATE  
2 BILL NO. 953

By: Griffin of the Senate

and

Wallace of the House

3  
4  
5  
6 An Act relating to tax credits; amending Section 1,  
7 Chapter 421, O.S.L. 2014 (68 O.S. Supp. 2017, Section  
8 2357.403), which relates to the Oklahoma Affordable  
9 Housing Act; modifying definition; modifying  
10 carryforward period; and providing an effective date.

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

12 SECTION 3. AMENDATORY Section 1, Chapter 421, O.S.L.  
13 2014 (68 O.S. Supp. 2017, Section 2357.403), is amended to read as  
14 follows:

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

17 B. As used in this section:

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

20 2. "Eligibility statement" means a statement authorized and  
21 issued by the Oklahoma Housing Finance Agency certifying that a  
22 given project qualifies for the Oklahoma Affordable Housing Tax  
23 Credit authorized by this section. The Oklahoma Housing Finance  
24 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter

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

9 3. "Federal low-income housing tax credit" means the federal tax  
10 credit as provided in Section 42 of the Internal Revenue Code of  
11 1986, as amended;

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

14 5. "Qualified project" means a qualified low-income building as  
15 that term is defined in Section 42 of the Internal Revenue Code of  
16 1986, as amended, which is not financed with tax-exempt bonds and is  
17 located in this state in a county with a population of less than one  
18 hundred fifty thousand (150,000) according to the latest Federal  
19 Decennial Census; and

20 6. "Taxpayer" means a person, firm or corporation subject to the  
21 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or  
22 an insurance company subject to the tax imposed by Section 624 or  
23 628 of Title 36 of the Oklahoma Statutes or other financial  
24



1 institution subject to the tax imposed by Section 2370 of Title 68  
2 of the Oklahoma Statutes.

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

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

22 E. An insurance company claiming a credit against state premium  
23 tax or retaliatory tax or any other tax imposed by Section 624 or 628  
24 of Title 36 of the Oklahoma Statutes shall not be required to pay

1 any additional retaliatory tax under Section 628 of Title 36 of the  
2 Oklahoma Statutes as a result of claiming the credit. The credit  
3 may fully offset any retaliatory tax imposed by Section 628 of Title  
4 36 of the Oklahoma Statutes.

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

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

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

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

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 4. This act shall become effective January 1, 2019.

12 Passed the Senate the 13th day of March, 2018.

13  
14 \_\_\_\_\_  
15 Presiding Officer of the Senate

16 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
17 2018.

18  
19 \_\_\_\_\_  
20 Presiding Officer of the House  
21 of Representatives

22  
23  
24