An Act

ENROLLED SENATE
BILL NO. 2128

By: Jolley, Justice, Griffin, Marlatt, Schulz and Sparks of the Senate

and

Martin (Scott), Sears, McNiel, Denney, Sanders, Schwartz, Jackson and Pittman of the House

An Act relating to revenue and taxation; enacting the Oklahoma Affordable Housing Act of 2014; defining terms; authorizing specified amount of credit to be claimed against various tax types for certain qualified projects within specified time period; setting cap on credits which may be claimed for a specified project and for all projects within certain time period; providing method for allocating credits under cap; requiring certain eligibility statement; authorizing taxpayer to assign specified interest; providing for treatment of liability for retaliatory tax; providing that credit is not refundable and may be carried forward for specified time period; requiring certain documentation be provided for credit to be allowed; providing for recapture of credit under specified circumstances and to specified extent; providing for review of the act under specified time frame; providing for codification; and providing an effective date.

SUBJECT: Oklahoma Affordable Housing Act

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.403 of Title 68, unless there is created a duplication in numbering, reads as follows:

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

B. As used in this section:

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

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

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

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

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

6. "Taxpayer" means a person, firm or corporation subject to the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or

an insurance company subject to the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes or other financial institution subject to the tax imposed by Section 2370 of Title 68 of the Oklahoma Statutes.

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

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

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

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

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

H. The owner of a qualified project eligible for the credit authorized by this section shall submit, at the time of filing the

tax return with the Oklahoma Tax Commission, an eligibility statement from the Oklahoma Housing Finance Agency. In the case of failure to attach the eligibility statement, no credit under this section shall be allowed with respect to such project for that year until required documents are provided to the Tax Commission.

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

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

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

SECTION 2. This act shall become effective January 1, 2015.

Passed the Senate the 20th day of May, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2014.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd

day of May, 20 14, at 3:27 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 3rd

day of June, 20 14, at 11:13 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 3rd

day of June, 20 14, at 1:38 o'clock P. M.

By: Chi Benge