

**OKLAHOMA HOUSING FINANCE AGENCY
RULE IMPACT STATEMENT
CHAPTER 36. AFFORDABLE HOUSING TAX CREDIT PROGRAM**

a. DESCRIPTION AND PURPOSE OF THE RULE: Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), provides that a federal tax credit (the “Credit”) may be claimed for a period of ten years by qualified owners (as defined by the Code) of residential property rented to qualified low-income tenants at restricted rates, if said owner has been approved for an allocation of Credits by the state housing credit allocating agency. Oklahoma Housing Finance Agency (“OHFA”) is Oklahoma’s allocating agency. The Code further provides that each state’s annual Credit authority is to be allocated by that state’s allocating agency pursuant to a qualified allocation plan. These Chapter 36 Affordable Housing Tax Credit Program Rules (the “Rules”) are part of Oklahoma’s qualified allocation plan. The purpose of said Rules is to comply with the Code, the Oklahoma Administrative Procedures Act (“APA”), and to provide guidelines for administering the allocations of Oklahoma’s annual Credit authority and OHFA’s Affordable Housing Tax Credit Program (the “Credit Program”). The Board of Trustees are also required to administer the Credit Program in a manner consistent with Oklahoma’s Housing Antidiscrimination Act, 15 O.S., § 1451-1453 and all federal laws prohibiting discrimination, including 42 U.S.C., § 1983 and the Fair Housing Act, as amended 42 U.S.C., § 3601 *et seq.*

b. DESCRIPTION OF THE CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE, INCLUDING CLASSES THAT WILL BEAR THE COSTS OF THE PROPOSED RULE: Qualified property owners applying for an allocation of Credits and those approved for an allocation are the persons primarily affected by the Rules. Families and individuals utilizing the residential rental units will also be affected. Localities where the rental properties are located may also be affected. See also, discussion at paragraphs c. and d.

OHFA bears the costs of developing and promulgating the Rules and for administering the Credit Program. Property owners are required to pay fees to OHFA in connection with an application for, and allocations of, tax credits. Code compliance monitoring fees are also charged to property owners. Such fees help defray the costs of drafting and implementing the Rules and administering the Credit Program.

OHFA has not received any information concerning cost impact from any private or public entities as of the last date of amendments to this Rule Impact Statement.

c. DESCRIPTION OF THE CLASSES OF PERSON WHO WILL BENEFIT FROM THE PROPOSED RULE: These Rules are intended to provide procedures for allocating Oklahoma’s Credit authority in a manner consistent with, and as authorized by, the Code. Qualified owners approved for an allocation of Oklahoma’s Credit authority benefit from the Credit Program and the Rules. The intended effect of the Rules is to increase the availability of affordable housing for Oklahoma families and individuals thereby benefiting those families and individuals qualifying as tenants under Credit Program housing. The State will also benefit because affordable housing will be provided to the citizens of the State. Further, persons

employed in the construction or housing industries can be reasonably expected to benefit from the Credit Program because of new construction or rehabilitation of housing units.

d. DESCRIPTION OF THE PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS, POLITICAL SUBDIVISIONS, INCLUDING A DISCUSSION OF FEE CHARGES: Oklahoma's annual Credit authority is determined by federal law, based upon the population of the state (i.e., an inflationary adjusted number, currently \$2.75625, multiplied by the state's population). Under this federal program, the Credit is claimed by eligible taxpayers; neither federal nor state revenues are paid directly to any participant in the Credit Program, or expended for administration of the Credit Program. This is in contrast to other renter assistance programs which are generally accomplished through the use of direct subsidies of federal or state funds, such as public housing, Section 8 rental assistance, CDBG funding, and the HOME program.

The main objective of the Credit Program is the development of housing for lower income families and individuals at affordable rental rates, thereby reducing the cost burden while providing safe and adequate housing.

The Credit Program is also intended to have a positive economic impact for owners of residential dwellings, and for the State of Oklahoma. Developers and owners must comply with the Rules and Code requirements which may increase their operating costs. However, the economic benefits of the federal Credit should outweigh such effect. In most cases, proper use of the Credit by the owner results in lower debt on the property, thereby allowing the owner to reduce rents and mitigate rent burdens on lower income families.

The Credit Program assists political subdivisions such as cities and counties in providing affordable housing to low-to-moderate-income families without requiring the expenditure of local dollars for construction and rehabilitation.

Some of the fee charges set forth in the Credit Rules include an application fee, and allocation fees. These fees are paid by applicants for an allocation of Credits and are based upon the size of the development or the amount of the allocation request. Requests for final allocations require an additional file review and feasibility analysis. Applicants approved for an allocation of Credits are also responsible for the payment of compliance monitoring fees. In the event an owner wishes to transfer the ownership of a development, a fee is paid to cover costs associated with reviewing the request.

Persons requesting copies of rules or making Open Records Act requests pay a copy fee. A copy of the proposed rules will be available on the website, www.ohfa.org. The Open Records Act fees are as provided by statute.

e. PROBABLE COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY OF THE IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE AND ANY ANTICIPATED EFFECT ON STATE REVENUES INCLUDING ANY PROJECTED NET LOSS OR GAIN IN SUCH REVENUES: The costs associated with the proposed 2021 amendments to the Rules are estimated to be approximately \$2,500, consisting

primarily of staff time, public hearing and transcript costs, publication costs and copy costs. The cost of enforcing the Rules depends on several factors, including the length and frequency of on-site inspections of developments, responding to inquiries concerning a development or hearings, and the extent of voluntary compliance with the Rules.

OHFA does not directly receive state appropriated funds. These proposed Rules should have no impact on state appropriated funds. Generally, the fees paid by Developers are intended to offset the costs of implementing and enforcing the Rules. Extraordinary circumstances may require expenditures of OHFA's general funds.

The amendments to the Rules will benefit OHFA by streamlining procedures allowing for a more efficient administration of the Credit Program.

f. A DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED REULE WILL HAVE AN ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE RULE: Some of the expected economic impacts on political subdivisions are described in paragraph d of this Rule Impact Statement. Because the Credit Program requires new construction or substantial rehabilitation, developers are required to expend revenues for construction. This provides economic benefit to the community, through providing construction jobs and the sale of materials. The development also increases the property tax base for the community as well as providing safe, sanitary, decent housing at affordable rents to low-income families.

The Rules require all applicants to prepare a market study to assess (i) the housing needs of the locality where the proposed project will be located, (ii) the absorption rates and existing occupancy rates for the locality, and (iii) the appropriateness of the location of the project. This requirement is intended to provide the Trustees with an assessment of any impact of the Credit Program on localities.

A resolution of support is required from local governing bodies as a threshold item. The cooperation of local political subdivisions in implementing or enforcing the Rules is encouraged, but is not required. The Code and the Rules provides that the Mayor or highest elected official, or if neither of the aforementioned exist, the Chief Executive Officer of the local jurisdiction within which a proposed development is to be located be notified and provided a reasonable opportunity to comment on the development. The Trustees will take these comments into consideration when evaluating the application.

g. A DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT: Small business developers and owners must comply with the Rules and Code requirements which may increase their operating costs. However, the positive impact of the Credit Program far outweighs the possible increased cost to small business since proper use of the Credit by the owner results in lower debt on the property, thereby allowing the owner to

reduce rents and mitigate rent burdens on lower income families while at the same time reducing their overall costs.

h. MEASURES OHFA HAS TAKEN TO MINIMIZE COMPLIANCE COSTS AND A DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NONREGULATORY METHODS OR LESS INTRUSIVE METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES: The Code requires that each state develop a qualified allocation plan. The Code makes certain provisions mandatory for inclusion in the qualified allocation plan. The Code also requires states to monitor, for Code compliance, developments for which an allocation is made. The Rules are part of Oklahoma's qualified allocation plan and OHFA's procedures for monitoring Code compliance.

The Oklahoma Administrative Procedures Act requires rules to be adopted for activities of an agency involving policies of general applicability and future effect of which describe procedural requirements of the agency. Therefore, to comply with the dictates of the Internal Revenue Service and the Oklahoma Administrative Procedures Act, these Rules are mandatory. Accordingly, it does not appear to OHFA that there are any nonregulatory means to achieve the purpose of the Rules, nor any less costly or less intrusive methods for achieving the purpose of the Rules.

i. DETERMINATION OF EFFECT OF PROPOSED RULES ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT: The Credit Program is intended to increase affordable housing within the State of Oklahoma and indirectly stimulate economic growth. See discussion under paragraph d, above. There are no other effects on public health, safety, or the environment.

j. DETERMINATION OF ANY DETRIMENTAL EFFECT ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE PROPOSED RULES ARE NOT IMPLEMENTED: None have been determined at this time.

k. DATE RULE IMPACT STATEMENT WAS PREPARED: This Rule Impact Statement was prepared February 6, 2020.