

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO.604

By: Young

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; creating the
8 First Chance Business Owner Opportunity Incentive Act
9 of 2019; providing short title; defining terms;
10 providing for income tax credit; providing for credit
11 against certain in lieu tax; specifying amount of
12 credit; providing for tax credit based upon certain
13 interest income; providing for tax credit based upon
14 certain losses; prohibiting tax credit from reducing
15 tax liability to less than zero; authorizing
16 carryover of tax credit; prohibiting transferability
17 of tax credit; providing for termination of tax
18 credit authorization; providing for compliance with
19 certain statutory requirement related to measurable
20 goals; providing for codification; providing for
21 noncodification; and providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law not to be
24 codified in the Oklahoma Statutes reads as follows:

25 This act shall be known and may be cited as the "First Chance
26 Business Owner Opportunity Incentive Act of 2019".

27 SECTION 2. NEW LAW A new section of law to be codified
28 in the Oklahoma Statutes as Section 2357.701 of Title 68, unless
29 there is created a duplication in numbering, reads as follows:

1 A. As used in this section:

2 1. "Business" means any lawful for-profit activity as
3 authorized by the laws of the State of Oklahoma;

4 2. "Financial institution" means either a bank or a credit
5 union whether chartered pursuant to federal or state law;

6 3. "Loan participation agreement" means a contract to which two
7 or more financial institutions are parties and pursuant to which
8 monies are loaned to a qualified start-up business and no single
9 financial institution lends one hundred percent (100%) of the funds
10 made available to the qualified start-up business;

11 4. "Loan syndication agreement" means any contract involving
12 two or more financial institutions in which the risk of loss related
13 to lending activity in which a qualified start-up business is the
14 borrower, alone or together with credit guaranties of any kind
15 executed by the principals of the business enterprise, is shared
16 among such institutions;

17 5. "Qualified interest income" means interest received by a
18 financial institution from a qualified start-up business pursuant to
19 a loan participation agreement or loan syndication agreement entered
20 into directly between the qualified start-up and the financial
21 institution or pursuant to an agreement between two or more
22 financial institutions which provide funds to the business for its
23 capitalization or operations;

1 6. "Qualified loan participation loss" means a financial
2 decision by a financial institution to reflect in its books and
3 records, whether required by applicable federal or state law
4 regulating the business of the financial institution or not, that
5 some part or all of an amount of money loaned to a qualified small
6 business will not be repaid;

7 7. "Qualified start-up business" means a business enterprise,
8 whether a sole proprietorship, general partnership, limited
9 partnership, corporation, limited liability company or other
10 lawfully recognized business entity, engaged in lawful business
11 activity for profit which:

12 a. has not been engaged in the business activity within
13 the State of Oklahoma for which loan proceeds are
14 provided by a financial institution for a period of
15 more than five (5) years as of the date that the
16 qualified start-up business or its principals become
17 legally obligated for repayment of a loan amount,

18 b. has a total owner equity amount as reflected by an
19 audited financial statement as of the last date of the
20 month prior to the date on which loan proceeds are
21 made available to the qualified start-up business by a
22 financial institution not in excess of One Million
23 Dollars (\$1,000,000.00),
24

- 1 c. has a payroll for jobs located in Oklahoma not in
2 excess of One Million Dollars (\$1,000,000.00),
3 d. has not had within the five-year period of time prior
4 to the date any loan proceeds are made available to it
5 gross revenues in excess of Five Million Dollars
6 (\$5,000,000.00), and
7 e. is not a subsidiary entity of a parent business entity
8 which would not qualify on its own as a qualified
9 start-up company pursuant to the requirements of this
10 paragraph.

11 B. For taxable years beginning after December 31, 2019, subject
12 to the limitations prescribed by subsection C of this section, there
13 shall be allowed a credit against the tax imposed pursuant to
14 Section 2355 or Section 2370 of Title 68 of the Oklahoma Statutes in
15 an amount equal to twenty-five percent (25%) of:

- 16 1. Qualified interest income; and
17 2. A qualified loan participation loss.

18 C. The amount of interest income received by one or more
19 financial institutions for which the credit authorized by paragraph
20 1 of subsection B of this section may be claimed shall not exceed
21 One Million Dollars (\$1,000,000.00) with respect to any loan or
22 loans made to the qualified start-up business by such financial
23 institution. If the interest income is received by more than one
24 financial institution, the credit may only be claimed with respect

1 to the interest income allocated to each financial institution for
2 amounts loaned to one qualified start-up business.

3 D. The amount of qualified loan participation losses for which
4 a single financial institution may claim the credit authorized by
5 paragraph 2 of subsection B of this section shall not exceed One
6 Million Dollars (\$1,000,000.00). If the loan loss is incurred by
7 more than one financial institution, the credit may only be claimed
8 with respect to the loan loss allocated to each financial
9 institution for amounts loaned to one qualified start-up business
10 enterprise.

11 E. The credit authorized by this section shall not be used to
12 reduce the liability of the taxpayer to less than zero (0).

13 F. The credit authorized by this section to the extent not used
14 to reduce a tax liability amount may be carried over, in order, to
15 each of the five (5) subsequent tax years. The provisions of this
16 subsection shall not be limited by the provisions of subsection H of
17 this section.

18 G. The credit authorized by this section shall not be
19 transferable.

20 H. The provisions of this section shall terminate by operation
21 of law and shall have no force or effect for any event, transaction
22 or occurrence that would otherwise qualify for the credit authorized
23 by this section after December 31, 2024.
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1 I. In compliance with Section 46A of Title 62 of the Oklahoma
2 Statutes, the Legislature finds that the measurable goals of the
3 incentive authorized by this act are improved capital access for
4 start-up business enterprises, efficient use of available capital by
5 financial institutions, improved capital investment by business
6 entities within the state, job creation and retention and the
7 development of a positive entrepreneurial business environment in
8 the State of Oklahoma.

9 SECTION 3. This act shall become effective January 1, 2020.
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