

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 147

BY: TALIAFERRO

AS INTRODUCED

AN ACT RELATING TO PUBLIC LANDS; AMENDING 64 O.S.

1981, SECTION 52, WHICH RELATES TO INVESTMENTS IN  
FARM MORTGAGES; AND CHANGING CERTAIN LOAN LIMIT.

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

SECTION 1. AMENDATORY 64 O.S. 1981, Section 52, is amended to read as follows:

Section 52. Investments of the permanent funds and other educational funds in farm mortgages shall be made under the following rules and regulations:

(a) Such investments shall be made in first mortgages upon good and improved farm lands located within the State of Oklahoma, the cash value of which, disregarding all improvements, is at least double the amount of the loan, and the fair rental value of which is equal to the annual payments which are to be made by the borrower, and not to exceed ~~One Hundred Fifty Thousand Dollars (\$150,000.00)~~ One Hundred Sixty Thousand Dollars (\$160,000.00), shall be loaned to any individual or family.

(b) Persons to be eligible for a new loan from funds held by the Commissioners of the Land Office shall be citizens of the State of Oklahoma and shall be the owners of legal or equitable title, as determined by the Marketable Record Title Act, Section 71 et seq. of

Title 16 of the Oklahoma Statutes, to the land offered as security for such loan on the date of filing application for said loan. The provisions of this act shall not prohibit the Commissioners of the Land Office from renewing or increasing existing loans at the current rate of interest in cases where the applicant offers adequate security to justify a renewal.

(c) All farm loans made by the Commissioners of the Land Office of the State of Oklahoma from the trust funds under their jurisdiction and control, as otherwise provided by the laws of this state, shall bear interest at the rate of eight and one-half percent (8 1/2%) per annum, payable annually or semiannually, until paid. All delinquent installments, both principal and interest, shall bear interest at a rate of ten percent (10%) per annum until paid. All such loans shall be paid in the manner and within such period of time as may be required by the Commissioners of the Land Office; provided, the entire amount of any loan shall be paid within a period of not to exceed thirty-three (33) years from the date of the loan. Provided, further, that persons receiving fifty percent (50%) or more of their total annual income from the operation of a farm shall be given preference by the Commissioners in approval of any loans made under the provisions of this act.

(d) The Commissioners of the Land Office shall prepare applications for loans, appraisers' reports, notes and mortgages in conformity with these rules and regulations for use in making such loans. No application shall be accepted unless the Commission has funds available for timely closing of such loans. The necessary services incident to the making and closing of loans shall be rendered as nearly as practicable in the order in which applications are filed.

(e) No loan shall be made until the applicant furnishes a duly certified abstract of title, showing that he is the owner of title to the security offered, and before any loan is paid out to a

borrower a final certificate of the title examiner of the Commissioners shall be made approving the title. Before any loan can be closed, the records held by the loan division must show that state's mortgage is a first and superior lien on the lands described therein and that all prior liens have been subordinated or released of record. All abstracts furnished may be retained and filed in the Department or returned to the borrower when said loan is completed. In case of default and foreclosure the abstract shall be forfeited to and become the property of the School Land Department.

(f) When an application for a loan is filed and a deposit made of the required fees, the application shall be referred to an appraiser who shall view and appraise the land and improvements thereon and make his report to the Commissioners, setting forth the value of the security offered, together with his estimate of the annual rental value thereof, and his recommendations as to the necessary steps that should be taken to protect said land from erosion, wastage, and depletion, and such additional information as the Commissioners may require. If the report shows the security to be of sufficient value, said report shall be considered by the Commissioners at their next meeting following the filing of said report, and they shall either approve or reject said application; provided an applicant shall pay a loan fee on the basis of the amount of loan actually disbursed. The Commissioners are hereby given authority to, and shall, before completing any approved application, require the applicant to take any steps found necessary to properly conserve and protect the land from erosion, wastage, or depletion. After the Commissioners approve any application for a loan, the abstract of title shall be presented to the title examiners for examination. The title examiners of the School Land Commission shall recognize and be bound by the title examination standards of the Oklahoma Bar Association, and the applicable curative statutes, in making title examinations for loan purposes.

Provided, further, that, in lieu of furnishing a duly certified abstract of title showing that he is the owner of title to the security offered, any such applicant for loan from the Commissioners of the Land Office may furnish, at his cost, mortgage guaranty of title or mortgage title insurance. The instruments of guaranty or insurance shall be on forms approved by the Commissioners of the Land Office and issued by a title insurance company or title guaranty company authorized to transact title guaranty or title insurance business in the State of Oklahoma and approved by the Commissioners of the Land Office.

The guarantor or insurer shall be liable to the state for any and all damages or losses of the loan which the state may sustain by reason of any defect or irregularity in the chain of title to the subject land or encumbrance against said land covered by the state's mortgage, unless such defect or irregularity is shown as an exception in the guaranty or policy.

All instruments of guaranty or insurance in connection with any loan shall be retained by the Commissioners of the Land Office until such loan is liquidated. The abstracts used to write the title guaranty or insurance shall be retained by the title underwriter until possession thereof is required by the Commissioners of the Land Office.

(g) No loans shall be made to any state official, either legislative, executive, or judicial, whether elected or appointed, during his or her term of office or during his or her candidacy for an elective office; provided, that this rule and regulation shall not affect existing loans, nor hereafter to loans made to persons eligible therefor and who are elected after securing said loans.

(h) No loan shall be made on a tract of land of less than twenty (20) acres and in no case shall more than an average of Three Hundred Fifty Dollars (\$350.00) per acre be loaned, regardless of value.

(i) The Commissioners shall permit payment of a loan in part or in whole at any time, provided, the borrower shall have the right at any time to pay all or any part of delinquent payments. The cashier in all cases, upon receipt of any payments of whatever nature, shall issue a receipt to the payer at the time said payment is made. Diligent effort shall be made to collect all matured installments of both interest and principal. When a loan is liquidated, the Commissioners of the Land Office shall issue a release of their mortgage to be filed and recorded in the office of the county clerk, at the expense of the mortgagors. No settlement shall be made by the Commissioners of the Land Office or any employee with any borrower for less than the amount due upon his obligation; provided, that in all cases where the Commissioners have heretofore accepted deeds to land in satisfaction of loans, such transactions are hereby confirmed and title in and to said lands is hereby validated and confirmed.

(j) It shall be the duty of the Commissioners of the Land Office to authorize and approve all loans made and see to it that same are made in strict conformity to this act, and to authorize and approve all investments made from funds under their management and control.

(k) The duties of the officers comprising the Commissioners of the Land Office when acting as such Commissioners shall be deemed to be a part of the official duties of the several offices to which they are elected and by reason whereof they are members of said Commission. If any Commissioner or employee of the School Land Department knowingly permits, consents to, or participates in any act or transaction which is in violation of these rules, he shall be deemed guilty of a misdemeanor and shall be subject to removal from office, and shall be liable on his bond for any loss occasioned thereby.

(1) The terms and provisions of this act providing for making of loans shall not prevent or prohibit the Commissioners of the Land Office from making loans which are approved prior to the date this act becomes effective under the rules and regulations prescribed by the Legislature as existed on the date said loans were approved.

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