STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1825 By: Toure

AS INTRODUCED

An Act relating to economic development; enacting the Distressed Area Development Act; defining terms; authorizing applications to Oklahoma Department of Commerce; providing for certification process; imposing requirements for certification; providing exemptions from certain fees; providing exemptions from certain fees and taxes; specifying duration of benefits; requiring analysis of income levels for certain areas; requiring notification; authorizing audits of books and records for certain purposes; providing for liability for payment of fees and taxes under certain circumstances; providing exception; authorizing actions for collection of fees and taxes; providing for inapplicability of statutes of limitation; providing exception for liability based upon change in certain economic conditions; prohibiting false statements; prescribing criminal penalty; requiring availability of job training programs; prescribing conditions pursuant to which certain incentive payments available; requiring election for certain purposes; imposing limitations upon receipt of certain multiple benefits; providing for codification; providing an effective date; and declaring an emergency.

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 692.1 of Title 62, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Distressed Area Development Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.2 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Business entity" means a sole proprietor, a general partnership, a joint venture, a limited partnership, a corporation,

a limited liability company, a trust, an estate, or any other legal entity or combination of legal entities the principal purpose of which is to engage in the lawful sale of goods, or services or a combination of goods and services for profit and which has not engaged in business activity within the State of Oklahoma prior to July 1, 1999;

2. "Business entity principals" means:

a. the partners of a general partnership,

b. the general partners and the limited partners of a limited partnership,

c. the directors and officers of a corporation,

d. the manager or managers of a limited liability company, or

e. those persons having the majority interest in any other type of business entity;

3. "Compensation" means wages, salary, bonuses, tips, allowances for expenses incurred in the performance of job-related duties which are not reimbursements for expenses initially incurred by the employee on behalf of the business entity, and other forms of remuneration;

4. "Certified income distress area" means a "census tract" or "block numbering area" as defined by the United States Bureau of the Census surrounding the business location of a qualified business entity and in which reside a number of persons, whose gross household incomes from all sources for the calendar year preceding the year in which the determination is made are below the poverty level established by the United States Bureau of the Census, equal to or greater than thirty percent (30%) of the total number of residents of the area;

5. "Conducts business" means any activity which relates to the production of income or to the expenditure of money or its

equivalent to achieve any of the purposes for which the business entity has been organized on or after July 1, 1999;

6. "Located" means having a physical location at which residents of the certified income distress area are required to either report to a person or persons employed by the business entity or at which residents of the certified income distress area are usually present during the work schedule required by the business entity in their capacity as employees or agents of the business entity;

7. "Poverty level" means the total amount of income, based upon the number of persons living in a household, as determined by the United States Bureau of the Census for the most recent year in which data is available for the determination;

8. "Resident" means an individual who occupies any dwelling unit located within an income distress area and who occupies the dwelling unit on a more or less permanent basis; and

9. "Targeted workforce" means residents within an income distress area who are compensated by a business entity located within and doing business within an income distress area and who comprise a specified percentage of the total labor force of the business entity as required by this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.3 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. A business entity which conducts business within a certified income distress area may make application to the Oklahoma Department of Commerce for certification as a qualified business entity. Upon certification by the Department of Commerce, the business entity shall be entitled to the benefits of this act.

B. In order to be certified by the Department of Commerce, the business entity shall:

1. Employ a number of persons at the business location within the certified income distress area consisting of at least thirty percent (30%) of persons who are a targeted workforce; and

2. Make payment of at least thirty percent (30%) of its total payroll-related expenses, including compensation and benefits, exclusive of compensation or benefits paid to or on behalf of business entity principals, to the persons comprising the targeted workforce pursuant to paragraph 1 of this subsection.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.4 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. A qualified business entity having received a certification from the Oklahoma Department of Commerce pursuant to Section 3 of this act shall be exempt from the payment of the following fees for the period of time during which the qualified entity meets the requirements of this act and shall be able to claim a refund of any of the following amounts paid prior to its certification as a qualified business entity upon obtaining certification from the Department of Commerce:

1. The fees imposed pursuant to Section 1142 of Title 18 of the Oklahoma Statutes for the organization of the business entity or for the qualification of the business entity to do business if the business entity is a corporation organized pursuant to the Oklahoma General Corporation Act or is qualified to do business within the state pursuant to that act;

2. The fees imposed pursuant to Section 2055 of Title 18 of the Oklahoma Statutes for the organization of the business entity or for the qualification of the business entity to do business if the business entity is a limited liability company organized pursuant to the Oklahoma Limited Liability Company Act or is qualified to do business within the state pursuant to that act;

3. The fee imposed pursuant to Section 143 of Title 54 of the Oklahoma Statutes for the organization of the business entity if the business entity is a limited partnership organized pursuant to the Oklahoma Uniform Limited Partnership Act;

4. The fee imposed pursuant to Section 174 of Title 54 of the Oklahoma Statutes for the registration of a foreign entity if the business entity is a foreign limited partnership qualified to do business within the state pursuant to the Oklahoma Uniform Limited Partnership Act;

5. The fee imposed pursuant to Section 314 of Title 54 of the Oklahoma Statutes for the organization of the business entity if the business entity is a limited partnership organized pursuant to the Oklahoma Revised Uniform Limited Partnership Act; and

6. The fee imposed pursuant to Section 350 of Title 54 of the Oklahoma Statutes for the registration of the business entity if the business entity is a foreign limited partnership qualified to do business within the state pursuant to the Oklahoma Revised Uniform Limited Partnership Act.

B. A qualified business entity having received a certification from the Oklahoma Department of Commerce pursuant to Section 3 of this act shall be exempt from the levy and payment of the following taxes or fees for the period of time during which the qualified business entity meets the requirements of this act:

1. The franchise tax imposed pursuant to Section 1201 et seq. of Title 68 of the Oklahoma Statutes;

2. The sales tax imposed pursuant to Section 1350 et seq. of Title 68 of the Oklahoma Statutes;

3. The use tax imposed pursuant to Section 1401 et seq. of Title 68 of the Oklahoma Statutes; and

4. The income tax imposed pursuant to Section 2351 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.5 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. A qualified business entity shall be entitled to the benefits provided by this act for a period equal to the time during which the business entity fulfills the requirements imposed pursuant to subsection B of Section 3 of this act.

B. The Oklahoma Department of Commerce shall make an annual determination of the income levels of the residents of a certified income distress area in which a qualified business entity is located. If the Oklahoma Department of Commerce determines that the income level as originally determined for the certified income distress area has risen above the applicable poverty level, the qualified business entity shall be notified of this change in economic conditions by certified mail, with return receipt requested, by the Department of Commerce. The notification shall be provided within thirty (30) days of the date upon which the determination is made. A copy of the notification provided to the business entity shall be provided to the Oklahoma Tax Commission, by certified mail, with return receipt requested.

C. The Oklahoma Tax Commission shall be authorized to conduct an audit of the books and records of the business entity to determine if the business entity has complied with the requirements of paragraph 2 of subsection B of Section 3 of this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.6 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by Section 7 of this act, a qualified business entity that ceases to fulfill the requirements of paragraph 1 or 2 of subsection B of Section 3 of this act shall be liable for repayment of the original amount of the fees or taxes identified by Section 4 of this act from which the business entity

was originally exempt. Upon a determination of the loss of qualified status by a previously qualified business entity, the Oklahoma Department of Commerce shall notify the Oklahoma Tax Commission and the Secretary of State of the loss of qualified status by certified mail, with return receipt requested.

B. The Oklahoma Tax Commission shall be authorized to take such actions for the collection of the applicable fees or taxes owed as are authorized by law and may take such actions notwithstanding the provisions of Section 223 of Title 68 of the Oklahoma Statutes or Section 2375 of Title 68 of the Oklahoma Statutes or any other applicable statute of limitation.

C. The Secretary of State shall be authorized to collect the fees which would otherwise have been required to be paid at the time the qualified business entity was organized or qualified to do business within the State of Oklahoma notwithstanding any statute of limitation which would otherwise be applicable.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.7 of Title 62, unless there is created a duplication in numbering, reads as follows:

No qualified business entity having received the benefits provided by this act shall be required to make payment of any liability for fees, taxes, penalties or interest upon the fees or taxes as a result of a change in the income level of the persons residing within a certified income distress area. If the business entity continues to do business within an area which was originally certified as an income distress area after the determination is made that the area no longer meets the criteria for an income distress area as provided by this act, the business entity shall no longer have the benefit of the exemptions provided by Section 4 of this act and the business entity shall only become liable for those fees or taxes applicable to income, property, transactions or other taxable events occurring on the first day of the calendar year following the

date upon which the business entity is notified by the Oklahoma Department of Commerce of the change in income level of the area within which the business entity is conducting business.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.8 of Title 62, unless there is created a duplication in numbering, reads as follows:

Any person who makes a false statement upon any application for certification as a qualified business entity shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by the imposition of a fine not to exceed One Thousand Dollars ($1,000.00) or by confinement in the county jail for a period not to exceed thirty (30) days or by both such fine and imprisonment.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.9 of Title 62, unless there is created a duplication in numbering, reads as follows:

In order to initially qualify for the benefits provided by this act and to remain qualified for the benefits provided by this act, a business entity shall make available to all of its employees a job training program consisting of instruction designed to maintain the job skills required for performance of the duties and responsibilities imposed upon an employee as a condition of initial or continued employment with the business entity. The business entity may conduct the job training program on its business premises or may offer the program in conjunction with a vocational-technical school under the jurisdiction of the Department of Vocational and Technical Education.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692.10 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, upon compliance with the applicable provisions of law governing incentive payments pursuant to the Oklahoma Quality Jobs Program Act, or the

Saving Quality Jobs Act, or the Former Military Facility Development Act, a qualified business entity eligible for the benefits provided by this act shall also be entitled to the benefits provided by any of those respective acts for a period of three (3) years from the date as of which the business entity first begins to conduct business within a certified income distress area.

B. After the expiration of three (3) years from the date as of which a qualified business entity begins to conduct business, the entity shall be entitled to both the benefits provided by this act and, based upon compliance with the applicable provisions of law governing the incentive payments provided under the acts, to the benefits provided by the Oklahoma Quality Jobs Program Act, or the Saving Quality Jobs Act or the Former Military Facility Development Act if the business entity maintains a workforce, exclusive of business entity principals, consisting of at least twenty percent (20%) of persons between the ages of sixteen (16) and twenty-five (25) years of age who are residents of the certified income distress area in which the business entity conducts business.

C. After the expiration of three (3) years from the date upon which a qualified business entity first conducts business, the entity may only receive both the benefits provided by this act and the incentive payments provided, if applicable, under the Oklahoma Quality Jobs Program Act, or the Saving Quality Jobs Act or the Former Military Facility Development Act upon fulfilling the requirements of subsection B of this section.

SECTION 11. This act shall become effective July 1, 1999.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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