

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 336

By: Fisher

AS INTRODUCED

An Act relating to public finance; creating the Oklahoma Rural Housing Incentive District Act; providing short title; defining terms; specifying purpose; authorizing governing body of municipality or county to designate rural housing incentive districts; specifying procedure and requirements related thereto; requiring conduct of housing needs analysis; requiring certain findings and determinations; specifying requirements of certain resolutions; specifying duties of Executive Director of Oklahoma Housing Finance Agency; providing procedures for establishment of districts; requiring project plan and specifying certain contents thereof; requiring public hearing and specifying requirements therefor; providing that establishment of district is null and void under certain circumstances; providing for acquisition of real property; allowing issuance of special obligation bonds for certain purposes and subject to certain limitations; providing procedures, terms and requirements therefor; requiring voter approval; providing for funding thereof; requiring bonds to contain certain recitals; specifying allowable uses of proceeds of bonds; prohibiting certain uses; providing for levy of certain assessments and providing for apportionment of revenues therefrom; requiring certain transmission of certain information and documents; providing for codification; and providing an effective date.

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 870 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 "Oklahoma Rural Housing Incentive District Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 871 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Rural Housing Incentive District Act:

1. "County" means any county with a population of less than forty thousand (40,000) persons, according to the most recent federal decennial census;

2. "Developer" means the person, firm or corporation responsible under an agreement with the governing body of a municipality or county to develop housing or related public facilities in a district;

3. "District" means a rural housing incentive district established in accordance with the Oklahoma Rural Housing Incentive District Act;

4. "Executive Director" means the Executive Director of the Oklahoma Housing Finance Agency;

5. "Governing body" means the board of county commissioners of any county or the governing body of a municipality;

6. "Municipality" means any incorporated city or town with a population of less than forty thousand (40,000) persons in a county with a population of less than sixty thousand (60,000) persons, according to the most recent federal decennial census;

7. "Real property taxes" means and includes all taxes levied on an ad valorem basis upon land and improvements thereon; and

8. "Taxing subdivision" means the county, the municipality, the school district, and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created rural housing incentive district.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 872 of Title 62, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the purpose of the Oklahoma Rural Housing Incentive District Act to encourage the development and renovation of housing in the rural municipalities and counties of

Oklahoma by authorizing municipalities and counties to assist directly in the financing of public improvements that will support such housing in rural areas of Oklahoma which experience a shortage of housing, pursuant to the provisions of subsection B of Section 6C of Article X of the Oklahoma Constitution.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 873 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The governing body of any municipality or county is hereby authorized to designate rural housing incentive districts within such municipality or county. Any municipal governing body may designate one or more such districts in such municipality, and any county governing body may designate one or more such districts in any part of the unincorporated territory of such county. Prior to making such a designation, the governing body shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community. After conducting the analysis, the governing body shall adopt a resolution containing a legal description of the proposed district, a map depicting the existing parcels of real estate in the proposed district, and a statement of the following findings and determinations:

1. There is a shortage of quality housing of various price ranges in the municipality or county despite the best efforts of public and private housing developers;

2. The shortage of quality housing can be expected to persist and additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the municipality or county;

3. The shortage of quality housing is a substantial deterrent to the future economic growth and development of such municipality or county; and

4. The future economic well-being of the municipality or county depends on the governing body providing additional incentives for the construction or renovation of quality housing in such municipality or county.

B. The resolution containing the findings contained in subsection A of this section shall be published at least once in a legal newspaper of general circulation within the municipality or county.

C. Upon publication of the resolution as provided in subsection B of this section, the governing body shall send a certified copy of the resolution to the Executive Director of the Oklahoma Housing Finance Agency, requesting that the Executive Director review the resolution and advise the governing body whether he or she agrees with the findings contained therein. If the Executive Director advises the governing body in writing that he or she agrees with each of the findings of the governing body, the governing body may proceed to establish the district as set forth in the Oklahoma Rural Housing Incentive District Act. If the Executive Director fails to agree with the findings, the Executive Director shall advise the governing body in writing of the specific reasons therefor.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 874 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Upon receipt of the approval of the Executive Director of the Oklahoma Housing Finance Agency as provided in subsection C of Section 4 of this act, the governing body may proceed with the establishment of the district. Before doing so, the governing body shall adopt a project plan for the development or redevelopment of housing and public facilities in the proposed district. Such project plan may include plans for one or more projects, and the length of any individual project shall not exceed fifteen (15)

years. The project plan shall include, but not be limited to, the following:

1. The legal description and map required by subsection A of Section 4 of this act;

2. The existing assessed valuation of the real estate in the proposed district, listing the land and improvement values separately;

3. A list of the names and addresses of the owners of record of all real estate parcels within the proposed district;

4. A description of the housing and public facilities project or projects that are proposed to be constructed or improved in the proposed district, and the location thereof;

5. A listing of the names, addresses and specific interests in real estate in the proposed district of the developers responsible for development of the housing and public facilities in the proposed district;

6. The contractual assurances, if any, the governing body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentive projects in the proposed district; and

7. A comprehensive analysis of the feasibility of providing housing tax incentives in the district as provided in the Oklahoma Rural Housing Incentive District Act, which shows that the public benefits derived from such district will exceed the costs and that the income therefrom, together with other sources of funding, will be sufficient to pay for the public improvements that may be undertaken in such district. If other sources of public or private funds are to be used to finance the improvements, they shall be identified in the analysis.

B. Prior to the adoption of the project plan and designation of the district, the governing body shall adopt a resolution stating that the governing body is considering such action. The resolution

shall provide notice that a public hearing will be held to consider the adoption of the project plan and the designation of the district and contain the following elements:

1. The date, hour, and place of the public hearing;
2. The contents of paragraphs 1 through 4 of subsection A of this section;
3. A summary of the contractual assurances by the developer and comprehensive feasibility analysis as specified in paragraphs 6 and 7 of subsection A of this section; and
4. A statement that the project plan is available for inspection at the office of the clerk of the municipality or county during normal business hours; and
5. A statement inviting members of the public to review the project plan and attend the public hearing on the date announced in the resolution.

C. The date fixed for the public hearing shall be not less than thirty (30) nor more than seventy (70) days following the date of the adoption of the resolution. The resolution shall be published at least once in a legal newspaper of general circulation in the municipality or county, with the final publication being not less than one (1) week or more than two (2) weeks preceding the date fixed for the public hearing.

D. A certified copy of the resolution shall be delivered to the planning commission of the municipality or county and the board of any school district levying taxes on property within the proposed district. If the resolution is adopted by a municipal governing body, a certified copy also shall be delivered to the board of county commissioners of the county. If the resolution is adopted by a county governing body, it also shall be delivered to the governing body of any municipality located within three (3) miles of such proposed district.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 875 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. At the public hearing, a representative of the municipality or county shall present the proposed project plan for the development or renovation of housing in the proposed district. Each project proposed for the district shall be identified and explained. At the hearing, the developer or developers that have contracted with the municipality to undertake the project shall be identified and presented in person or through such developer's representative. Following the presentation, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

B. Upon the conclusion of the public hearing, the governing body may adopt the project plan for the district and may establish the district by ordinance or, in the case of any county, by resolution. The boundaries of such district shall not include any area not designated in the notice required by Section 5 of this act. Any addition of area to the district or any substantial change to the project plan shall be subject to the same procedure for public notice and hearing as required for the initial establishment of the district.

C. The ordinance or resolution establishing the district shall be null and void if, within thirty (30) days following the conclusion of the hearing:

1. The board of any school district levying taxes on such property determines by resolution that the proposed district will have an adverse effect on such school district;

2. The governing body of any municipality located within three (3) miles of the district proposed to be established by a county

determines by ordinance that the proposed district will have an adverse effect on such municipality; or

3. The board of county commissioners of the county in which a municipal governing body proposes to establish such a district determines by resolution that the proposed district will have an adverse effect on such county.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 876 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Any governing body which has established a rural housing incentive district as provided in the Oklahoma Rural Housing Incentive District Act may purchase or otherwise acquire real property; however, the property may not be acquired through the exercise of the power of eminent domain.

B. Any property acquired by a municipality or county under the Oklahoma Rural Housing Incentive District Act may be sold or leased to any developer, in accordance with the rural housing incentive project plan and under such conditions as shall have been agreed to prior to the adoption of the project plan. The municipality or county and the developer may agree to any additional terms and conditions, but if the developer requests to be released from any obligations agreed to and embodied in the project plan, such release shall constitute a substantial change and subject to the requirements provided in subsection B of Section 6 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 877 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Any municipality or county which has established a housing incentive district as provided in the Oklahoma Rural Housing Incentive District Act may issue special obligation bonds to finance the implementation of the project plan adopted for the district by the governing body, subject to the limitations on indebtedness of

the municipality or county as provided in Section 26 of Article X of the Oklahoma Constitution. The issuance of such bonds shall be required to be approved by the voters of the district, voting at an election called for such purpose by the governing body of the municipality or county. Such special obligation bonds shall be made payable, both as to principal and interest:

1. From property tax increments allocated to, and paid into a special fund of the municipality or county under the provisions of subsection A of Section 10 of this act;

2. From revenues of the municipality or county derived from or held in connection with the implementation of the project or projects in the district;

3. From any private sources, contributions or other financial assistance from the state or federal government;

4. From any financial sureties or other guarantees provided by the developer;

5. From a pledge of any other lawfully available municipal or county revenue sources including, but not limited to, a portion of all increased franchise fees collected from utilities and other businesses using public rights-of-way within the district or a portion of the sales and use tax revenues received by the municipality or county; or

6. By any combination of these methods.

The municipality or county may pledge such revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

B. Bonds issued pursuant to the provisions of this section shall not be general obligations of the municipality or county, nor in any event shall they give rise to a charge against the general credit or taxing powers of the municipality or county, or be payable

out of any funds or properties other than any of those set forth in this subsection. Such bonds shall so state on their face.

C. The bonds issued under the provisions of this section shall be special obligations of the municipality or county and are hereby declared to be negotiable instruments. The bonds shall be executed by the mayor and clerk of the municipality or, in the case of counties, by the chair of the board of county commissioners and clerk of the county, and shall be sealed with the corporate seal of the municipality or the seal of the county. All details pertaining to the issuance of such special obligation bonds shall be determined by ordinance of the municipality or resolution of the county. All special obligation bonds issued pursuant to the Oklahoma Rural Housing Incentive District Act shall be exempt from all state taxes except estate taxes. Special obligation bonds issued pursuant to the provisions of this section shall contain the following recitals:

1. The authority under which such special obligation bonds are issued;

2. That they are in conformity with the provisions, restrictions, and limitations thereof; and

3. That such special obligation bonds and the interest thereon are to be paid from the money and revenue received as provided in subsection A of this section.

D. The maximum maturity on bonds issued to finance projects pursuant to the Oklahoma Rural Housing Incentive District Act shall not exceed fifteen (15) years.

E. Any municipality or county issuing special obligation bonds under the provisions of the Oklahoma Rural Housing Incentive District Act may refund all or part of such issue as provided by law.

F. In the event the municipality or county shall default in the payment of any special obligation bonds as authorized pursuant to the provisions of this section, no public funds shall be used to pay

the holders thereof except as otherwise specifically authorized in the Oklahoma Rural Housing Incentive District Act.

G. Any and all terms, conditions, exclusions and limitations which are otherwise applicable to bonds issued by municipalities and counties shall also be applicable to bonds issued pursuant to this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 878 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Any municipality or county which has established a rural housing incentive district may use the proceeds of special obligation bonds issued under Section 8 of this act, or any uncommitted funds derived from those sources of revenue set forth in subsection A of Section 8 of this act, to implement specific projects identified within the rural housing incentive district project plan including, without limitation:

1. Acquisition of property within the specific project area or areas as provided in Section 7 of this act;
2. Payment of relocation assistance;
3. Site preparation;
4. Sanitary and storm sewers and lift stations;
5. Drainage conduits, channels and levees;
6. Street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
7. Street lighting fixtures, connection and facilities;
8. Underground gas, water, heat, and electrical services and connections located within the public right-of-way;
9. Sidewalks; and
10. Water mains and extensions.

B. None of the proceeds from the sale of special obligation bonds issued under Section 8 of this act shall be used for the construction of buildings or other structures to be owned by or to

be leased to any developer of a residential housing project within the district.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 879 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The governing body of a municipality or county, subject to the provisions of the Oklahoma Rural Housing Incentive District Act, may levy assessments by and for the benefit of a taxing subdivision on property located within such district, the revenue from which shall be apportioned as follows:

1. From the assessments levied each year subject to the provisions of the Oklahoma Rural Housing Incentive District Act by or for each taxing subdivision upon property located within a district constituting a separate taxing unit under the provisions of the Oklahoma Rural Housing Incentive District Act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the revenues collected which are produced from that portion of the current assessed valuation of such real property located within such separate taxing unit which is equal to the total assessed value of such real property on the date of the establishment of the district; and

2. Any revenues produced from that portion of the current assessed valuation of real property within a district and constituting a separate taxing unit under the provisions of this section in excess of an amount equal to the total assessed value of such real property on the effective date of the establishment of the district shall be allocated and paid by the county treasurer to the treasurer as follows:

a. in districts established by a municipality, the amount shall be paid to the treasurer of the municipality and deposited in a special fund of the municipality to pay the cost of housing projects in the district including

the payment of principal of and interest on any special obligation bonds issued by such municipality to finance, in whole or in part, such housing project, and

- b. in districts established by a county, the amount shall be deposited by the county treasurer in a special fund of the county to pay the cost of housing projects in the district including the payment of principal of and interest on any special obligation bonds issued by such county to finance, in whole or in part, such housing project. If such special obligation bonds and interest thereon have been paid before the completion of a project, the municipality or county may continue to use such moneys for any purpose authorized by the Oklahoma Rural Housing Incentive District Act until such time as the project is completed, but for not to exceed fifteen (15) years from the date of the establishment of the district.

When such special obligation bonds and interest thereon have been paid and the project is completed, all moneys thereafter received from real property taxes within such district shall be allocated and paid to the respective taxing subdivisions in the same manner as are other ad valorem taxes.

B. Notwithstanding any other provision of law, it is hereby stated that it is an object of assessments levied by or for the benefit of any taxing subdivision on taxable real property located within any district created pursuant to the Oklahoma Rural Housing Incentive District Act, that revenues therefrom may be applied and allocated to and when collected paid into a special fund of a municipality or county pursuant to the procedures and limitations of the Oklahoma Rural Housing Incentive District Act to pay the cost of a project including principal of and interest on special obligation

bonds issued by such municipality or county to finance, in whole or in part, such project.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 880 of Title 62, unless there is created a duplication in numbering, reads as follows:

After the adoption by the governing body of a project plan which contains the provisions required by Section 5 of this act, the clerk of the municipality or county shall transmit a copy of the description of the land within the district, a copy of the ordinance or resolution adopting the project plan, and a map or plat indicating the boundaries of the district, to the clerk, assessor, and treasurer of the county in which the district is located and to the governing bodies of any taxing subdivision which levy taxes upon any property in the district. Such documents shall be transmitted as promptly as practicable following the adoption or modification of the project plan, but in any event, on or before January 1 of the year following the adoption or modification of the project plan.

SECTION 12. This act shall become effective November 1, 1999.

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