STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1218 By: Turner

COMMITTEE SUBSTITUTE

An Act relating to public finance; enacting the Oklahoma Rural Housing Linked Deposit Act; making certain findings regarding rural housing; stating purpose; defining terms; authorizing State Treasurer to disseminate information; authorizing administration of program; providing exemption from Administrative Procedures Act; authorizing issuance of guidelines; prescribing procedures for adoption of guidelines; requiring annual report; providing for distribution of rural housing linked deposit loan packages; prescribing procedures related to application process; imposing requirements on financial institutions; imposing maximum loan amount; imposing limit on number of loans; prohibiting loans to certain persons; providing for certification regarding purpose of loan; requiring certain priority based upon rural housing needs; prescribing procedures related to processing of linked deposit loan packages by State Treasurer; providing for prohibited participation based upon false statements; authorizing review or audit of applications; providing for processing of application by certifying agency; imposing time limit for recommendation; prescribing procedures in the event of rejection; authorizing evaluation of applications; prescribing procedures related to approval or rejection of applications; authorizing review; authorizing fee for certain costs; prescribing procedures for notification; providing for deposit of certain funds; providing for certain interest rate; providing for rural housing linked deposit agreements; providing for requirements of agreement; providing for funding of loan by financial institution; prescribing requirements related to financing; authorizing certain action by State Treasurer; providing for immunity from liability; amending Section 14, Chapter 277, O.S.L. 1994, as last amended by Section 4, Chapter 88, O.S.L. 1995 (62 O.S. Supp. 2000, Section 88.1B), which relates to investment of linked deposit monies; modifying maximum dollar limitation for investment; 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 91.1 of Title 62, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 9 of this act shall be known and may be cited as the "Oklahoma Rural Housing Linked Deposit Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.2 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Oklahoma's rural areas suffer from a lack of interim financing for builder-developers of housing in rural areas, inadequate profit incentives for builder-developers, economy of scale problems which work against economics of developing projects consistent with local market needs, and lack of available interim financing from local lenders to fund land acquisition, site development, or construction of housing in rural areas.

B. It is the purpose of the Oklahoma Rural Housing Linked Deposit Act to provide funding for eligible rural housing developers to build affordable housing in rural Oklahoma. It is the specific intent of the Legislature that any funding provided to eligible rural housing developers for the purpose of building affordable rural housing shall assist in the development of Oklahoma's rural areas in order to broaden Oklahoma's economic base.

C. The Oklahoma Rural Housing Linked Deposit Act will meet rural housing needs by creating a revolving capacity of no more than Twenty-five Million Dollars ($25,000,000.00) to enable eligible rural housing developers to finance land acquisition, site development, and construction of single family or multifamily housing units in rural areas. For purposes of determining whether this twenty-five-million-dollar maximum is met, the State Treasurer shall consider amounts approved for link deposit participation, whether or not a borrower has actually used the entire amount approved.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.3 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Rural Housing Linked Deposit Act:

1. "Eligible rural housing developer" means any individual, partnership, domestic limited liability company, or domestic corporation within the State of Oklahoma which is engaged in the construction, building or development of rural housing, as certified by a state agency or instrumentality selected by the State Treasurer to perform a certification process. Such certification shall be designed to select developers who will meet new construction needs in designated, underserved rural target markets;

2. "Eligible lending institution" means a financial institution that agrees to participate in the Oklahoma Rural Housing Linked Deposit Program, and:

a. is eligible to make commercial loans, and

b. is a public depository of state funds;

3. "Rural housing" means any single family or multifamily dwelling to be constructed in rural areas of Oklahoma;

4. "Rural areas" means areas of the state outside of high population centers and already well-developed metropolitan areas, which are not adequately served by existing home builders and developers in meeting supply needs for adequate rural housing. The certifying agency shall be responsible to adopt guidelines to identify the specific rural areas which are not adequately served in meeting supply needs for adequate housing;

5. "Rural housing linked deposit" means a certificate of deposit placed by the State Treasurer with an eligible lending institution for the purpose of carrying out the intent of this act;

6. "Rural housing linked deposit loan package" means the forms provided by the State Treasurer for the purpose of applying for a rural housing linked deposit; and

7. "Certifying agency" means the state agency or instrumentality selected by the State Treasurer to perform the certification process for rural housing developers, to develop guidelines required by this act, and to review individual rural housing linked deposit loan packages.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.4 of Title 62, unless there is created a duplication in numbering, reads as follows:

The State Treasurer is hereby authorized to disseminate information about the Oklahoma Rural Housing Linked Deposit Program to builders, developers and financial institutions in this state.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.5 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Treasurer is hereby authorized to administer the Oklahoma Rural Housing Linked Deposit Program. The State Treasurer and the certifying agency shall be exempt from Articles I and II of the Administrative Procedures Act when taking actions pursuant to this act. The State Treasurer and the certifying agency are authorized to issue guidelines in a manner similar to the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes.

B. The certifying agency will develop guidelines which, after review and approval by the State Treasurer, will address maximum possible participation amounts per each unit of single family or multifamily housing for land acquisition, site development, and construction, as well as eligibility requirements as to sale or rental price limitations and type of housing.

C. The State Treasurer shall submit an annual report outlining the status of the Oklahoma Rural Housing Linked Deposit Program to the Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.6 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Treasurer shall provide rural housing linked deposit loan packages upon request to the lending institutions eligible for participation in the Oklahoma Rural Housing Linked Deposit Program.

B. The rural housing linked deposit loan package shall be completed by the developer before being forwarded to the lending institution for consideration.

C. 1. An eligible lending institution that desires to receive a rural housing linked deposit shall accept and review applications for loans from eligible rural housing developers. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible developer. No single linked deposit for an Oklahoma rural housing linked deposit loan shall exceed Two Million Dollars ($2,000,000.00).

2. Only one linked deposit loan shall be made and be outstanding at any one time to any developer. However, the linked deposit loan may be renewed subject to the time limitations for participation set forth in subsection C of Section 7 of this act.

3. No loan shall be made to any officer or director of the lending institution making the loan.

4. No loan shall be made to any employee of the State Treasurer's office or to any officer, director or employee of the certifying agency, or to any entity in which such officer, director or employee maintains a controlling interest, or to an immediate family member of the employees, officers, or directors of the State Treasurer or the certifying agency.

D. An eligible rural housing developer shall certify on its loan application that the reduced rate loan will be used exclusively for the purposes outlined in Section 2 of this act.

E. In considering which eligible rural housing developers to include in the rural housing linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the development to be financed is located and other factors it considers appropriate to determine the relative financial need of the developer.

F. 1. The eligible lending institution shall forward to the State Treasurer a rural housing linked deposit loan package, in the form and manner prescribed and approved by the State Treasurer. The package shall include information regarding the amount of the loan requested by each eligible developer and such other information regarding each development the State Treasurer requires. The institution shall, for each development, certify the present borrowing rate applicable to similar borrowers for similar projects, as well as the rate that would be charged to the applicant but for participation in the linked deposit program.

2. The institution and applicant shall certify that each applicant is an eligible rural housing developer.

3. Whoever knowingly makes a false statement concerning a linked deposit loan application shall be prohibited from participating in the linked deposit loan program.

G. Upon receipt of a completed rural housing linked deposit loan package, the State Treasurer may review or audit the information contained in the completed rural housing linked deposit loan package. The State Treasurer shall forward the completed rural housing linked deposit loan package to the certifying agency for the purpose of review and possible certification. The certifying agency may charge an applicant a reasonable filing fee. A uniform fee may be established to cover its administrative costs of review. Any filing fee must be approved by the State Treasurer. The certifying agency shall review the linked deposit loan package to determine if the package satisfies the requirements of this act and guidelines

adopted pursuant to this act. The certifying agency shall make a recommendation concerning the package within thirty (30) business days. The certifying agency shall return the package to the State Treasurer with a written recommendation of approval or rejection. If the certifying agency recommends rejection, the written recommendation shall include reasons for said rejection. The certifying agency shall forward a copy of its rejection notice to the lending institution and the borrower. The State Treasurer shall keep a chronological list of applications forwarded by the certifying agency for approval or rejection.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.7 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The State Treasurer may accept or reject a rural housing linked deposit loan package or any portion thereof, which has been recommended for approval by the certifying agency based on the State Treasurer's evaluation of the eligible rural housing developer included in the package, and the amount of the package. If the State Treasurer rejects the application, the written notice of rejection shall include reasons for said rejection in a report to the certifying agency. The Treasurer shall also forward a copy of the rejection notice to the lending institution and the borrower. The borrower may be allowed to bring the application into compliance with the State Treasurer's requirements and resubmit the application. If the State Treasurer rejects the application because sufficient funds are not available for a linked deposit, then the completed application may be considered in the order received when funds are once again available subject to a review by the certifying agency and the lending institution. In evaluating the eligible rural housing developers, the State Treasurer shall consider the recommendation of the certifying agency and the economic needs of the area where the business is located.

B. Upon acceptance of the rural housing linked deposit loan package or any portion thereof, the State Treasurer shall notify the certifying agency, the lending institution, and the borrower. Upon acceptance, the State Treasurer may place certificates of deposit with the eligible lending institution at a rate no more than three percent (3%) below current market rates. When necessary, the State Treasurer may place certificates of deposit prior to acceptance of a rural housing linked deposit loan package.

C. The eligible lending institution shall enter into a rural housing linked deposit agreement with the State Treasurer, which shall include requirements necessary to implement the purposes of the Oklahoma Rural Housing Linked Deposit Program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the rural housing linked deposit to eligible rural housing developers at an interest rate that reflects a percentage-rate reduction below the present borrowing rate applicable to each specific rural housing developer in the accepted loan package that is equal to the percentage-rate reduction below market rates at which the certificates of deposit that constitute the rural housing linked deposit were placed. Such requirements shall also reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement shall also include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to be placed for any maturity considered appropriate by the State Treasurer not to exceed two (2) years and may be renewed once for up to an additional year, at the option of the State Treasurer. Interest on certificates of deposit shall be paid at the times determined by the State Treasurer.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.8 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Upon the placement of a rural housing linked deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible rural housing developer listed in the rural housing linked deposit loan package in accordance with the rural housing linked deposit agreement between the institution and the State Treasurer. The loan shall be at a rate that reflects a percentage-rate reduction below the present borrowing rate applicable to each developer that is equal to the percentage rate reduction below market rates at which the certificate of deposits that constitute the rural housing linked deposit were placed. A certification of compliance with this section in the form and manner as prescribed by the State Treasurer shall be required of the eligible lending institution.

B. The State Treasurer shall take any and all steps necessary to implement the Oklahoma Rural Housing Linked Deposit Program and monitor compliance of eligible lending institutions and eligible rural housing developers, including the development of guidelines as necessary.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.9 of Title 62, unless there is created a duplication in numbering, reads as follows:

The state, the State Treasurer, and the certifying agency shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible rural housing developer. Any delay in payments or default on the part of an eligible rural housing developer does not in any manner affect the rural housing linked deposit agreement between the eligible lending institution and the State Treasurer.

SECTION 10. AMENDATORY Section 14, Chapter 277, O.S.L. 1994, as last amended by Section 4, Chapter 88, O.S.L. 1995 (62 O.S. Supp. 2000, Section 88.1B), is amended to read as follows:

Section 88.1B A. The amount that the State Treasurer may invest in all linked deposit programs authorized by law shall not exceed the lesser of ~~Two Hundred Million Dollars ($200,000,000.00)~~ Two Hundred Twenty-five Million Dollars ($225,000,000.00) or fifteen percent (15%) of all monies available to the State Treasurer for investment as calculated by taking the average of the quarter-end amount for the previous four (4) quarters.

B. The State Treasurer shall on a quarterly basis review the percentage of total investable state funds invested in all linked deposit programs created by law to determine compliance with subsection A of this section.

C. If the State Treasurer determines that more than the amount allowable pursuant to subsection A of this section is invested in all linked deposit programs created by law, the State Treasurer shall suspend any renewal or any initiation of new linked deposit program investments until the time that the State Treasurer determines the investment percentage limitation established by this section has been met and except as provided by Section 88.1A of this title.

SECTION 11. This act shall become effective July 1, 2001.

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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