

EHB 1218

THE STATE SENATE
Tuesday, April 3, 2001

ENGROSSED

House Bill No. 1218

As Amended

ENGROSSED HOUSE BILL NO. 1218 - By: TURNER, ASKINS, DEUTSCHENDORF,
SMITH (Dale) and TYLER of the House and FISHER of the Senate.

[public finance - Oklahoma Rural Housing Linked Deposit Act
- report - amending 62 O.S., Section 88.1B - investment -
codification - effective date -
emergency]

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

1 financing from local lenders to fund land acquisition, site
2 development, or construction of housing in rural areas.

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

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

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

23 As used in the Oklahoma Rural Housing Linked Deposit Act:

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

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

12 a. is eligible to make commercial loans, and

13 b. is a public depository of state funds;

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

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

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

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

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

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

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

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

21 A. The State Treasurer is hereby authorized to administer the
22 Oklahoma Rural Housing Linked Deposit Program. The State Treasurer
23 and the certifying agency shall be exempt from Articles I and II of

1 the Administrative Procedures Act when taking actions pursuant to
2 this act. The State Treasurer and the certifying agency are
3 authorized to issue guidelines in a manner similar to the
4 Administrative Procedures Act, Section 301 et seq. of Title 75 of
5 the Oklahoma Statutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 G. Upon receipt of a completed rural housing linked deposit
5 loan package, the State Treasurer may review or audit the
6 information contained in the completed rural housing linked deposit
7 loan package. The State Treasurer shall forward the completed rural
8 housing linked deposit loan package to the certifying agency for the
9 purpose of review and possible certification. The certifying agency
10 may charge an applicant a reasonable filing fee. A uniform fee may
11 be established to cover its administrative costs of review. Any
12 filing fee must be approved by the State Treasurer. The certifying
13 agency shall review the linked deposit loan package to determine if
14 the package satisfies the requirements of this act and guidelines
15 adopted pursuant to this act. The certifying agency shall make a
16 recommendation concerning the package within thirty (30) business
17 days. The certifying agency shall return the package to the State
18 Treasurer with a written recommendation of approval or rejection.
19 If the certifying agency recommends rejection, the written
20 recommendation shall include reasons for said rejection. The
21 certifying agency shall forward a copy of its rejection notice to
22 the lending institution and the borrower. The State Treasurer shall

1 keep a chronological list of applications forwarded by the
2 certifying agency for approval or rejection.

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

6 A. The State Treasurer may accept or reject a rural housing
7 linked deposit loan package or any portion thereof, which has been
8 recommended for approval by the certifying agency based on the State
9 Treasurer's evaluation of the eligible rural housing developer
10 included in the package, and the amount of the package. If the
11 State Treasurer rejects the application, the written notice of
12 rejection shall include reasons for said rejection in a report to
13 the certifying agency. The Treasurer shall also forward a copy of
14 the rejection notice to the lending institution and the borrower.
15 The borrower may be allowed to bring the application into compliance
16 with the State Treasurer's requirements and resubmit the
17 application. If the State Treasurer rejects the application because
18 sufficient funds are not available for a linked deposit, then the
19 completed application may be considered in the order received when
20 funds are once again available subject to a review by the certifying
21 agency and the lending institution. In evaluating the eligible
22 rural housing developers, the State Treasurer shall consider the

1 recommendation of the certifying agency and the economic needs of
2 the area where the business is located.

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

11 C. The eligible lending institution shall enter into a rural
12 housing linked deposit agreement with the State Treasurer, which
13 shall include requirements necessary to implement the purposes of
14 the Oklahoma Rural Housing Linked Deposit Program. Such
15 requirements shall include an agreement by the eligible lending
16 institution to lend an amount equal to the rural housing linked
17 deposit to eligible rural housing developers at an interest rate
18 that reflects a percentage-rate reduction below the present
19 borrowing rate applicable to each specific rural housing developer
20 in the accepted loan package that is equal to the percentage-rate
21 reduction below market rates at which the certificates of deposit
22 that constitute the rural housing linked deposit were placed. Such
23 requirements shall also reflect the market conditions prevailing in

1 the eligible lending institution's lending area. The agreement
2 shall also include a specification of the period of time in which
3 the lending institution is to lend funds upon the placement of a
4 linked deposit, and shall include provisions for the certificates of
5 deposit to be placed for any maturity considered appropriate by the
6 State Treasurer not to exceed two (2) years and may be renewed once
7 for up to an additional year, at the option of the State Treasurer.
8 Interest on certificates of deposit shall be paid at the times
9 determined by the State Treasurer.

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

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

1 as prescribed by the State Treasurer shall be required of the
2 eligible lending institution.

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

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

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

18 SECTION 10. AMENDATORY Section 14, Chapter 277, O.S.L.
19 1994, as last amended by Section 4, Chapter 88, O.S.L. 1995 (62 O.S.
20 Supp. 2000, Section 88.1B), is amended to read as follows:

21 Section 88.1B A. The amount that the State Treasurer may
22 invest in all linked deposit programs authorized by law shall not
23 exceed the lesser of ~~Two Hundred Million Dollars (\$200,000,000.00)~~

1 Two Hundred Twenty-five Million Dollars (\$225,000,000.00) or fifteen
2 percent (15%) of all monies available to the State Treasurer for
3 investment as calculated by taking the average of the quarter-end
4 amount for the previous four (4) quarters.

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

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

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, dated
23 3-29-01 - DO PASS, As Amended.