

ENROLLED SENATE  
BILL NO. 515

By: Kerr of the Senate

and

Covey of the House

An Act relating to public finance; amending Sections 2, 3, 4, 5, 6, 7, and 8, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Sections 90.2, 90.3, 90.4, 90.5, 90.6, 90.7 and 90.8), which relate to the Rural Economic Development Loan Act; transferring responsibility of administering act from the State Treasurer to the Commissioner of Agriculture; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.2), is amended to read as follows:

Section 90.2 As used in the Rural Economic Development Loan Act:

1. "Commissioner" means the President of the State Board of Agriculture;

2. "Financial institution" means any office or branch of a bank, savings bank, savings association, building and loan association, savings and loan association, credit union or nonprofit lender exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code of the United States located in the State of Oklahoma;

~~2.~~ 3. "Participating financial institution" means a financial institution which pledges at least Three Million Dollars (\$3,000,000.00) but not to exceed Ten Million Dollars (\$10,000,000.00) to the Rural Economic Development Loan Revolving Fund;

~~3.~~ 4. "Qualified economic development project" means:

- a. the development, construction, restoration, or replacement of a physical facility located or to be located in a rural area of this state, which has been initiated by a participating financial institution which has been certified by the Rural Economic Development Loan Program Review Board pursuant to the

provisions of paragraph 3 of subsection B of Section ~~4~~  
~~of this act~~ 90.4 of this title, and

- b. the commencement or expansion of economic activities that result in or that will, within three (3) years of the commencement of such activities, result in the employment of five (5) or more full-time-equivalent employees at a location in a rural area of this state in positions that did not exist prior to the commencement of such activities and which has been certified by the Rural Economic Development Loan Program Review Board pursuant to the provisions of paragraph 3 of subsection B of Section ~~4 of this act~~ 90.4 of this title; and

~~4.~~ 5. "Rural area" means an area designated as such by the Office of Rural Development of the United States Department of Agriculture.

SECTION 2. AMENDATORY Section 3, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.3), is amended to read as follows:

Section 90.3 There is hereby created the Rural Economic Development Loan Program. The ~~State Treasurer~~ Commissioner of Agriculture shall administer the Program, under which reduced rate loans may be made by participating financial institutions, after approval by the Rural Economic Development Loan Program Review Board, to finance qualified economic development projects from the Rural Economic Development Loan Revolving Fund created in Section ~~8~~  
~~of this act~~ 90.8 of this title. The ~~State Treasurer~~ Commissioner shall promulgate rules and take such other actions as may be necessary to implement the Program and monitor compliance of participating financial institutions and loan applicants and recipients.

SECTION 3. AMENDATORY Section 4, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.4), is amended to read as follows:

Section 90.4 A. There is hereby created the Oklahoma Rural Economic Development Loan Program Review Board. The Board shall consist of seven (7) members as follows:

1. The State Auditor and Inspector or designee;
  2. The Lieutenant Governor or designee;
  3. The State Treasurer or designee;
  4. The State Banking Commissioner or designee;
  5. The Director of the Oklahoma Department of Commerce or designee;
  6. The President of the State Board of Agriculture or designee;
- and

7. The Chair of the Oklahoma Tax Commission or designee.

B. The Board shall have the following powers and duties:

1. To approve qualified economic development projects and eligibility for loans from the Rural Economic Development Loan Revolving Fund pursuant to applications submitted by participating financial institutions;

2. To review such applications and make a recommendation for approval or rejection of each loan. The Board may approve a loan in an amount less than the amount requested in the loan application submitted by a participating financial institution;

3. To certify each year the amount of annual payroll directly attributable to new jobs that are directly created as a result of each loan made under the Rural Economic Development Loan Act;

4. To develop criteria for prioritizing applications for loans and loan packages under the Rural Economic Development Loan Act. In prioritizing such applications, consideration shall be given to the economic needs of the area in which the loan recipient is located and other factors the Board considers appropriate to determine the relative financial need of the recipient, including those criteria set forth in the Community Reinvestment Act of the United States. Priority shall be given to loans which will result in job creation in areas of this state in greatest economic need;

5. To adopt and administer a reporting plan whereby the economic impact of rural economic development loans is reviewed and analyzed on an annual basis;

6. To annually prepare a report summarizing these findings. The report shall list separately each loan, with name, address, and type of business by Standard Industrial Classification or North American Industrial Classification System, amount, estimated jobs saved or created, lending institution and locations by county. The report shall be filed with the ~~State Treasurer~~ Commissioner of Agriculture, the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chairs of the Economic Development Committees of the Senate and House of Representatives;

7. To determine an amount to be retained by or paid to an entity for arranging a rural economic development loan or a package of such loans pursuant to the provisions of subsection D of Section ~~6 of this act~~ 90.6 of this title; and

8. To take such other actions as may be necessary as set forth in the Rural Economic Development Loan Act.

C. The ~~Office of the State Treasurer~~ Oklahoma Department of Agriculture, Food, and Forestry shall provide staff assistance to the Board.

D. Notwithstanding any other provision of law, the holding of other office or employment under the government of this state shall not be prohibited due to service on the Board.

SECTION 4. AMENDATORY Section 5, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.5), is amended to read as follows:

Section 90.5 A. A participating financial institution that desires to make a rural economic development loan shall accept and review applications for loans in connection with qualified economic development projects. A package of more than one rural economic development loan may be developed by a development company certified by the U.S. Small Business Administration or a political subdivision of this state or an agency thereof, and such entity may submit an application for one or more loans. The financial institution shall apply all usual lending standards and shall exercise due diligence to determine the creditworthiness of each applicant and to determine if the loan should be granted. Loans made under the Rural Economic Development Loan Act shall conform to the following conditions:

1. The maximum amount of loans under the Rural Economic Development Loan Act in connection with a particular qualified economic development project shall be determined by need in the rural area in which the project is located and the number of jobs created. The Oklahoma Rural Economic Development Loan Program Review Board shall have final decision-making authority as to the maximum amount of each loan;
2. The applicant shall certify on the loan application that the loan will be used exclusively in connection with the qualified economic development project in accordance with the purpose of the Rural Economic Development Loan Act;
3. No loan shall be approved for any otherwise eligible recipient when fifty percent (50%) or more of the interest in or control of such otherwise eligible recipient is owned directly or indirectly by a person who owns directly or indirectly fifty percent (50%) or more of or controls another participating recipient;
4. No loan shall be made to any officer or director of the financial institution making the loan or to any entity in which any such officer or director maintains a controlling interest;
5. No loan shall be made to any employee of the ~~State Treasurer's office~~ Oklahoma Department of Agriculture, Food, and Forestry or members of the Oklahoma Rural Economic Development Loan Program Review Board or to any entity in which any such employee or member maintains a controlling interest;
6. Whoever knowingly makes a false statement concerning a rural economic development loan application shall be prohibited from participating in the Rural Economic Development Loan Program; and
7. Rural economic development loans may be renewed if the amount of principal has been reduced by a minimum of five percent

(5%) per year and all interest has been paid from the time of the original loan.

B. The participating financial institution shall forward to the State Treasurer a rural economic development loan application in the form and manner prescribed and approved by the ~~State Treasurer~~ Commissioner of Agriculture. The application shall include information regarding the amount of the loan requested by each applicant, the number of jobs to be created, and such other information the ~~State Treasurer~~ Commissioner and the Board require.

C. Upon receipt of a completed rural economic development loan application, the ~~State Treasurer~~ Commissioner shall forward the loan application to the Board, the Oklahoma Tax Commission, and the Oklahoma Employment Security Commission. The Board shall review the loan package to determine if the loan requested meets the requirements set forth under the Rural Economic Development Loan Act. Within ten (10) days of receipt of the loan package, the Oklahoma Tax Commission and the Oklahoma Employment Security Commission shall determine and certify with the Board whether or not the applicant is in good standing. The Board shall make a recommendation concerning the application at the next regularly scheduled Board meeting or at a special Board meeting, after receipt of the responses from the Oklahoma Tax Commission and the Oklahoma Employment Security Commission. No applicant will be approved without certification of good standing with the Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall return the application to the ~~State Treasurer~~ Commissioner with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendation shall include reasons therefor. The Board shall forward a copy of its rejection notice to the financial institution and the applicant. The ~~State Treasurer~~ Commissioner shall keep a chronological list of applications forwarded by the Board for approval or rejection. Rejected applications may be resubmitted after reasons for rejection have been addressed.

SECTION 5. AMENDATORY Section 6, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.6), is amended to read as follows:

Section 90.6 A. Loans made pursuant to applications approved by the Oklahoma Rural Economic Development Loan Program Review Board shall be subject to the availability of funds pledged to the Rural Economic Development Loan Revolving Fund, and if a loan is not funded for such reason, it shall be funded in the order of the priority given each loan application by the Board.

B. Upon acceptance of the loan or any portion thereof, the ~~State Treasurer~~ Commissioner of Agriculture shall notify the Board, the participating financial institution and the applicant. The participating financial institution shall fund the loan to the approved applicant to the extent of its unencumbered pledge to the Rural Economic Development Loan Revolving Fund, not to exceed the amount of the loan accepted. If the amount of the participating financial institution's unencumbered pledge is less than the amount of the loan as accepted, the ~~State Treasurer~~ Commissioner shall

notify all other participating financial institutions with an unencumbered pledge to the fund and shall require each such institution to transfer an amount to the Rural Economic Development Loan Revolving Fund. Such amount shall be equal to the amount of the remainder of the loan multiplied by the percentage of the institution's unencumbered pledge of all unencumbered pledges. The ~~State Treasurer~~ Commissioner shall transfer such amounts to the participating financial institution making the loan.

C. The percentage rate of the loan shall be reduced compared to the rate imposed with respect to other loans made by the financial institution to similar recipients for similar purposes in an amount determined by the financial institution making the loan.

D. The ~~State Treasurer~~ Commissioner may retain in the Rural Economic Development Loan Fund an amount not to exceed two percent (2%) of the total amount of a loan. Amounts retained pursuant to the provisions of this subsection may be expended by the ~~State Treasurer~~ Commissioner for costs associated with administration of this act and may be paid by the State Treasurer to a development company certified by the U.S. Small Business Administration or a political subdivision of this state or agency thereof for costs associated with developing a loan package if all loans in the package are approved pursuant to the provisions of this act.

E. A certification of compliance with this section in the form and manner as prescribed by the ~~State Treasurer~~ Commissioner shall be required of the participating financial institution.

F. The participating financial institution making the loan shall, within three (3) business days of receipt, forward all payments received for repayment of the loan to the ~~State Treasurer~~ Commissioner for immediate deposit to the Rural Economic Development Loan Revolving Fund, until the amount deposited is equal to the amount transferred by other participating financial institutions in connection with the loan together with interest at the rate applied to the loan. The ~~State Treasurer~~ Commissioner shall forward such payments to such other participating financial institutions in proportion to the amounts transferred in connection with the loan. Remaining payments received for repayment of the loan shall be retained by the participating financial institution making the loan.

G. Neither the State of Oklahoma nor the ~~State Treasurer~~ Commissioner shall be liable to any participating financial institution in any manner for payment of the principal or interest on a rural economic development loan.

SECTION 6. AMENDATORY Section 7, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.7), is amended to read as follows:

Section 90.7 The ~~State Treasurer~~ Commissioner of Agriculture, in conjunction with the State Banking Commissioner, shall promulgate rules and prescribe forms to implement the provisions of the Rural Economic Development Loan Act, which shall include, but not be limited to, those necessary to effect contractual arrangements between participating financial institutions pursuant to the making

and collection of loans pursuant to the provisions of subsection B of ~~Section 6 of this act~~ Section 90.6 of this title.

SECTION 7. AMENDATORY Section 8, Chapter 486, O.S.L. 2002 (62 O.S. Supp. 2002, Section 90.8), is amended to read as follows:

Section 90.8 There is hereby created in the State Treasury a revolving fund for the ~~State Treasurer~~ Commissioner of Agriculture to be designated the "Rural Economic Development Loan Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~State Treasurer~~ Commissioner as provided in the Rural Economic Development Loan Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the ~~State Treasurer~~ Commissioner for the purpose of implementing the Rural Economic Development Loan Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 8. 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.

Passed the Senate the 26th day of February, 2003.

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Presiding Officer of the Senate

Passed the House of Representatives the 8th day of April, 2003.

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Presiding Officer of the House  
of Representatives

