ENROLLED SENATE
BILL NO. 865

By: Gumm and Maddox of the Senate

and

McCarter and Pope of the House

An Act relating to public finance; creating the Local Development Financing Act; providing short title; describing purposes of act; defining terms; authorizing certain issuer to pool certain debt issuances authorized by cities, towns and counties pursuant to the Oklahoma Local Development Act; establishing primary activities under the act; providing responsibilities of Administrator; authorizing state issuer to invest funds in specified obligations or to offer certain guarantee; establishing criteria for certain pooled issuances; authorizing certain investments by specified entities or persons; clarifying necessity for exercising reasonable care in making certain investments; amending 74 O.S. 2001, Section 5063.4a, which relates to the Oklahoma Development Finance Authority and the Credit Enhancement Reserve Fund; modifying and establishing new powers of Oklahoma Development Finance Authority; clarifying references; authorizing allocation of certain obligations to portfolio mix categories; 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 5102 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 through 3 of this act shall be known and may be cited as the "Local Development Financing Act".

B. The purpose of the Local Development Financing Act shall be to augment and enhance Section 6C of Article X of the Oklahoma Constitution by:

1. Assisting communities, especially small and rural towns and counties, by providing a financial resource for economic development endeavors; and

2. Creating marketability for tax apportionment financing vehicles under the Local Development Act.

C. As used in this act:

1. "Administrator" means an organization authorized by an issuer of a debt obligation pursuant to the Local Development Act, which undertakes the performance of the responsibilities contained in subsection C of Section 3 of this act; and

2. "Pooling issuer" means any state or local public entity authorized to issue notes or bonds pursuant to the Oklahoma Statutes for economic development financing of state industries and public facilities.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5103 of Title 74, unless there is created a duplication in numbering, reads as follows:

A pooling issuer is authorized to:

1. Issue a debt obligation which pools issuances of other public entities authorized by a municipality, town or county to issue tax apportionment or tax increment bonds, notes, or other forms of obligations pursuant to the Local Development Act; and

2. Attract private investment into the pooled issuance by either the direct investment of funds or by providing a guarantee for debt service for the purpose of implementing the Local Development Financing Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5104 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The primary activities of the pooling issuer may include:

1. Credit enhancement of local community development financing pursuant to the Local Development Act;

2. Utilization of private and public resources to improve the financing infrastructure for communities in this state;

3. Acting as an investor, insurer and/or guarantor of business capital and debt financing on behalf of communities in this state;

4. Marketing public obligations resulting from pooled obligations as provided in this act; and

5. Serving as a purchaser of, and as a guarantor for, the obligations of designated public entities to be repaid in whole or in part with the apportioned tax increments pursuant to the Local Development Act.

B. A pooling issuer may amend its indenture or authorizing document in accordance with the Oklahoma Statutes for purposes of issuing a pooled debt obligation pursuant to this act.

C. The Administrator shall be responsible for establishing, implementing, and coordinating economic development and financing programs for communities pursuant to this act and proposing such financing programs to the pooling issuer.

D. The pooling issuer may invest funds directly in its own pooled obligations pursuant to this section.

E. The following persons and legal entities may legally invest funds belonging to them or within their control in any notes, bonds, or other obligations issued under the Local Development Financing Act:

1. All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business;

2. All insurance companies, insurance associations, and other persons carrying on an insurance business; and

3. All executors, administrators, curators, trustees, and other fiduciaries.

Such notes, bonds and other obligations shall be authorized security for all public deposits.

F. The state and its political subdivisions are authorized to use any funds owned or controlled by them for the purchase of any such notes, bonds or other obligations issued under the Local Development Financing Act.

G. Nothing contained in subsections E and F with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 5063.4a, is amended to read as follows:

Section 5063.4a A. Credit enhancement granted by the Oklahoma Development Finance Authority shall be categorized by use as portfolio mix categories as follows:

1. Industrial, agribusiness, and other private activity;

2. Infrastructure and other publicly owned facilities of governmental entities;

3. Health care and other nonprofit-owned facilities; and

4. The Quality Jobs Investment Program established pursuant to Section ~~5 of this act~~ 5062.8a of this title.

B. The balance, as determined by the total principal amount authorized pursuant to Section 5063.11 of this title less the amount of Credit Enhancement Reserve Fund applications approved by the Bond

Oversight Commissions prior to June 9, 1990, less the amount allocated pursuant to Section 5063.4i of this title, shall be allocated to the portfolio mix categories as follows:

1. Twenty-five percent (25%) of said balance shall be allocated to the industrial, agribusiness, and other private activity portfolio mix category; and

2. Seventy-five percent (75%) of said balance shall be allocated to the infrastructure and other publicly owned facilities of governmental entities portfolio mix category, health care and other nonprofit-owned facilities portfolio mix category; provided, no more than twenty percent (20%) of this allocation may be used for health care and other nonprofit-owned facility projects.

C. The Authority is authorized to credit enhance and secure the payment of principal, interest and premium, if any, on the revenue bonds and other financial obligations issued pursuant to the Oklahoma Development Finance Authority Act, the Local Development Financing Act and the Credit Enhancement Reserve Fund Act. Except as used for the Small Business Credit Enhancement Program, the original principal amount of a credit enhancement commitment of the Authority granted to obligations in the industrial, agribusiness, and other private activity portfolio mix category shall not exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00).

D. To maximize use of the credit enhancement resource and to assure the viability of the Fund, the Fund shall have a balanced portfolio by loan size. In the case of the industrial, agribusiness, and other private activity portfolio mix category, the Fund shall strive to achieve a cumulative average loan size of less than One Million Dollars ($1,000,000.00).

E. Notwithstanding any other provisions of this act, any obligations issued pursuant to the Local Development Financing Act may be allocated to any of the portfolio mix categories pursuant to this section and Section 5063.4 of this title.

SECTION 5. This act shall become effective July 1, 2004.

SECTION 6. 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 20th day of May, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2004.

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Presiding Officer of the House
of Representatives