

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1770

By: Morgan

AS INTRODUCED

An Act relating to the Oklahoma Capital Investment Board; amending 74 O.S. 2001, Section 5085.8, which relates to the powers of the Board; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 5085.8, is amended to read as follows:

Section 5085.8 A. The Board shall have the power to solicit proposals from qualified investor groups for investment of capital in accordance with the requirements of ~~this act~~ the Oklahoma Capital Formation Act. The Board shall establish criteria for selection of persons, firms, corporations or other entities deemed qualified to generate capital for investment in a manner which will result in a significant potential to create jobs and to diversify and stabilize the economy of the State of Oklahoma. Such criteria shall include the applicant's level of experience, quality of management, investment philosophy and process, historical investment performance, probability of success in fund raising, the amount and timing of fees to be paid, and such other investment criteria as may be commonly used in professional portfolio management as the Board may deem appropriate.

B. The Board shall have the power to extend a guarantee in the form of a put option or such other method as selected by the Board. Guarantees may extend to principal plus interest over the term of the guarantee at a rate set by Board resolution from time to time.

Guarantees in whatever form negotiated by the Board may be made for any period of time, but no term shall expire prior to January 1, 1992. The Board may charge a reasonable fee for costs and the fair compensation of risk associated with its guarantee. The guarantees extended by the Board shall in no way be an obligation of the state and may be restricted to specific funds or assets of the Board; provided, however, proceeds from the sale of any tax credits shall be sufficient to meet contractual guarantee obligations of the Board. The Board shall have the right to contract freely to protect the interests of the State of Oklahoma. The Board shall ensure that at least Two Dollars (\$2.00) will be invested in Oklahoma businesses or projects for every One Dollar (\$1.00) of principal guaranteed by the Board.

C. If the Board purchases any security pursuant to an agreement with an investor group, the Board shall acquire such securities and may invest, manage, transfer or dispose of such securities in accordance with policies for management of assets adopted by the Board.

D. The Board shall have the power to make any contract, execute any document, perform any act or enter into any financial or other transaction necessary in order to carry out its mission. The Board may employ such persons as may be required for the performance of any function authorized or required by this act or necessary for the accomplishment of any such function. Such persons shall be selected based upon outstanding knowledge and leadership in the field for which the person performs services for the Board. In selecting such persons, the Board shall hire persons who meet standards applicable to persons responsible for investment of equity and near-equity securities.

E. In carrying out the mission of the Board as authorized in ~~this act~~ the Oklahoma Capital Formation Act, neither the Board nor its officers, directors or employees shall be considered to be

broker-dealers, agents, investment advisors or investment adviser representatives under Title 71 of the Oklahoma Statutes. The tax credits issued or transferred pursuant to the Oklahoma Capital Formation Act and Section 2357.7 of Title 68 of the Oklahoma Statutes shall not be considered to be securities under Title 71 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2006.

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