

1 ENGROSSED HOUSE
2 BILL NO. 2530

By: Brown of the House

3 and

4 Coates of the Senate

5
6
7 (public finance - Oklahoma Clean Energy Finance

8 Program Act - Oklahoma Clean Energy Finance

9 Program -

10 codification)

11

12

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

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1101 of Title 62, unless there
16 is created a duplication in numbering, reads as follows:

17 Sections 1 through 8 of this act shall be known and may be cited
18 as the "Oklahoma Clean Energy Finance Program Act".

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1102 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in this act, unless the context otherwise requires:

23 1. "Area median income" means the median income of the county
24 in which the primary residence of a qualified borrower is located in

1 relation to family size, as published annually by the United States
2 Department of Housing and Urban Development;

3 2. "Certified contractor" means a contractor, including but not
4 limited to a general, heating, air conditioning, or lighting
5 contractor, certified by the program administrator to market the
6 program to potential qualified borrowers and make clean energy
7 improvements that may be financed by clean energy loans;

8 3. "Clean energy improvement" means any repair of or addition
9 or improvement to residential real property completed by or under
10 the supervision of a certified contractor that improves the energy
11 efficiency of the property, replaces all or a portion of the energy
12 from nonrenewable sources used in connection with the property with
13 energy from renewable sources or provides for the acquisition of
14 energy-efficient products, including but not limited to Energy Star
15 compliant appliances or appliances that meet another qualified
16 rating system;

17 4. "Clean energy loan" means a loan in a maximum amount of
18 Twelve Thousand Five Hundred Dollars (\$12,500.00) originated by a
19 participating public lender or a participating private lender to a
20 qualified borrower for the purpose of financing one or more clean
21 energy improvements to the borrower's primary residence; except
22 that, if the qualified borrower is a nonprofit corporation or local
23 government housing authority that provides units in a multiunit
24 housing project as homes to individuals or families who meet the

1 income qualifications of first-tier or second-tier qualified
2 borrowers, the maximum amount of a loan shall be Twelve Thousand
3 Five Hundred Dollars (\$12,500.00) multiplied by the number of units
4 in the multiunit housing project provided to the individuals or
5 families;

6 5. "First-tier qualified borrower" means a qualified borrower
7 whose income is less than eighty percent (80%) of area median
8 income;

9 6. "Office" means the Governor's Energy Office;

10 7. "Program" means the Oklahoma Clean Energy Finance Program;

11 8. "Program administrator" or "administrator" means one or more
12 entities selected by the Office to:

13 a. market the program,

14 b. recruit, train, and certify contractors,

15 c. measure and verify, in accordance with standards
16 established by the Office, energy, emissions, and
17 gross and net cost savings resulting from clean energy
18 improvements financed by clean energy loans originated
19 and serviced by participating public lenders and
20 private lenders,

21 d. encourage homeowners to participate in utility demand-
22 side management programs where applicable, and

23 e. perform such other duties as may be authorized in this
24 act or required by the Office;

1 9. "Program fund" means the Clean Energy Program Fund created
2 in this act;

3 10. "Public lender" means a county, municipality, district,
4 authority, or other political subdivision of the state authorized to
5 make economic development, affordable housing, or housing
6 rehabilitation loans;

7 11. "Qualified borrower" means an individual or family who owns
8 his, her, or their primary residence and satisfies lending
9 guidelines established by the program administrator or a charitable
10 nonprofit corporation exempt from taxation under Section 501(c)(3)
11 of the Internal Revenue Code of 1986, as amended, or county or
12 municipal housing authority that provides homes for ownership or
13 rental to homeowners or renters who meet the income qualifications
14 of first-tier or second-tier qualified borrowers;

15 12. "Second-tier qualified borrower" means a qualified borrower
16 whose income is eighty percent (80%) or more, but less than one
17 hundred twenty percent (120%), of area median income; and

18 13. "Third-tier qualified borrower" means a qualified borrower
19 whose income is one hundred twenty percent (120%) or more of area
20 median income.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1103 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24 A. The Oklahoma Clean Energy Finance Program is hereby created.

1 B. The Office shall oversee the program and the program
2 administrator and shall, in addition to exercising any other powers
3 and performing any other duties specified in this act:

4 1. Select the program administrator in accordance with the
5 provisions of The Oklahoma Central Purchasing Act. In selecting the
6 program administrator, the Office shall consider the extent to which
7 a potential program administrator has demonstrated experience in
8 recruiting, training, and certifying contractors or can otherwise
9 establish that it will be able to perform such functions;

10 2. Directly market the program to the general public or
11 contract with the program administrator for the marketing of the
12 program to the general public;

13 3. Develop and operate or contract with the program
14 administrator for the development and operation of a quality
15 assurance, measurement, and verification program to:

16 a. monitor the quality of clean energy improvement
17 installations, and

18 b. measure and report on energy, emissions, and gross and
19 net cost savings resulting from clean energy
20 improvements financed by clean energy loans;

21 4. Determine, in consultation with the State Treasurer, when
22 the administrative and procedural framework for the program and the
23 available administrative and financial resources for the program are
24 sufficiently developed to allow the Office to effectively oversee

1 the program. No clean energy loan shall be marketed to a potential
2 qualified borrower, applied for by a potential qualified borrower,
3 or made to a qualified borrower until the Office has determined that
4 it is ready to effectively oversee the program and instructed
5 certified contractors to begin marketing clean energy loans; and

6 5. Exercise such other powers and perform such other duties
7 necessary or incidental to or implied from the specific powers and
8 duties specified in this act.

9 C. The Clean Energy Program Fund is hereby created in the State
10 Treasury, and the following accounts are hereby created in the fund:

- 11 1. The loan buy-down account; and
- 12 2. The loan loss reserve account.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1104 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The program fund and the accounts of the program fund shall
17 consist of such monies as the Legislature may appropriate thereto
18 from the Clean Energy Fund and any gifts, grants, or donations that
19 may be made to the program fund.

20 B. In accordance with requirements imposed upon the State
21 Treasurer, in making investments, to use prudence and care to
22 preserve the principal and to secure the maximum rate of interest
23 consistent with safety and liquidity, if the Legislature chooses not
24 to appropriate monies to the program fund or to the accounts of the

1 program fund nothing in this act shall be deemed to require the
2 State Treasurer to credit any monies to the program fund or the
3 accounts of the program fund.

4 C. All interest and income earned on the deposit and investment
5 of monies in the program fund and the accounts of the program fund
6 shall be used for the loan buy-down account and the loan loss
7 reserve account.

8 D. Monies in the loan buy-down account and loan loss reserve
9 account of the program fund shall remain in the accounts and shall
10 not be transferred to the general fund or any other fund at the end
11 of any fiscal year.

12 E. All monies in the program fund are continuously appropriated
13 to the Office, and the Office shall make payments from the loan buy-
14 down account of the program fund to participating public lenders and
15 private lenders to compensate the lenders for the reduction in the
16 amount of future interest payments resulting from the provision of
17 clean energy loans to first-tier and second-tier qualified borrowers
18 at the below-market interest rates specified by law.

19 F. The Office shall pay the compensation for each clean energy
20 loan by paying to the lender a lump sum equal to the present value
21 of the reduction in future interest payments on the date the loan
22 closes.

23

24

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1105 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Office shall make payments from the loan loss reserve
5 account of the program fund to compensate participating public
6 lenders and private lenders for the uncollectible amount of clean
7 energy loans any such lenders have written off. The Office shall
8 pay the compensation for each uncollectible clean energy loan by
9 paying to the lender a lump sum equal to the present value of the
10 uncollectible portion of the loan on the date the lender wrote it
11 off.

12 B. The State Treasurer shall periodically transfer monies from
13 the loan buy-down account of the program fund to the loan loss
14 reserve account of the program fund to ensure that the balance of
15 the loan loss reserve account is at least five percent (5%) of the
16 total principal amount of outstanding clean energy loans made by
17 participating public lenders and private lenders. The administrator
18 shall update the State Treasurer regarding outstanding clean energy
19 loans originated by such lenders as required by the State Treasurer
20 so that the State Treasurer can accurately determine the appropriate
21 amount and timing of transfers.

22 C. The State Treasurer may invest up to a total amount of
23 _____ Dollars of state monies in bonds or notes issued by
24

1 participating public or private lenders for the purpose of funding
2 clean energy loans during the 2011-12 fiscal year.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1106 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 In accordance with terms contractually agreed to by the program
7 administrator and the Office, acting on behalf of the state, the
8 program administrator shall implement and administer the program by:

9 1. Recruiting, selecting, screening, training, and certifying
10 contractors, including but not limited to general, heating, air
11 conditioning, and lighting contractors, to be certified contractors
12 capable of marketing the program and completing clean energy
13 improvements. The program administrator may charge contractors a
14 reasonable fee for training and certification, and the recruiting,
15 selection, screening, training, and certification process shall
16 include, at a minimum:

17 a. direct marketing of the program to contractors,

18 b. financial and business practices background checks of
19 contractors seeking to become certified contractors,
20 and

21 c. initial training that includes:

22 (1) education regarding the elements of the program,
23 the financial and environmental benefits of clean
24 energy improvements, including but not limited to

1 specific education regarding products qualified
2 to bear the federal Energy Star label or any
3 other qualified rating system, and recommended
4 means of marketing the program to potential
5 program customers, and

6 (2) the provision of information regarding additional
7 required training and other requirements for
8 contractors who may wish to become preferred
9 contractors under the federal home performance
10 with Energy Star program; and

11 2. Issuing annual reports regarding the administration of the
12 program as specified in Section 8 of this act.

13 SECTION 7. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1107 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A potential qualified borrower shall apply for a clean
17 energy loan by completing an initial loan application. The Office
18 or, at the discretion of the Office, the program administrator or
19 participating public lenders and private lenders shall prescribe the
20 form of the loan application and shall determine, based on the
21 application and such other information as the administrator may
22 reasonably require from the applicant, whether the applicant is a
23 qualified borrower and, if so, whether the qualified borrower is a
24 first-tier, second-tier, or third-tier qualified borrower.

1 B. A participating public lender may only originate clean
2 energy loans for first-tier and second-tier qualified borrowers. A
3 qualified borrower may choose a loan term of up to ten (10) years.
4 The State Treasurer shall, using a formula tied to a regularly
5 published interest rate index selected by the State Treasurer,
6 determine a base annual rate of interest to be charged on loans made
7 to third-tier qualified borrowers.

8 C. The State Treasurer shall set an annual rate of interest for
9 loans to second-tier qualified borrowers by subtracting a number of
10 basis points selected by the State Treasurer from the base annual
11 rate and shall set an annual rate of interest for loans to first-
12 tier qualified borrowers by subtracting a number of basis points
13 selected by the State Treasurer from the annual rate of interest for
14 loans to second-tier qualified borrowers.

15 D. The interest rate charged to a qualified borrower that is a
16 nonprofit corporation or a housing authority shall be the interest
17 rate charged to second-tier qualified borrowers; except that the
18 interest rate charged to a nonprofit corporation or housing
19 authority shall be the interest rate charged to first-tier qualified
20 buyers if the nonprofit corporation or housing authority only
21 provides the housing for which the loan will finance clean energy
22 improvements to individuals or families who are first-tier qualified
23 borrowers.

24

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1108 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. No later than one (1) year from the date of issuance of the
5 first clean energy loan by a participating public lender or private
6 lender pursuant to this act, and no later than the same date each
7 subsequent year, the program administrator shall provide to the
8 Office a report detailing its administration of the program since
9 its inception and for the prior fiscal year. The report shall
10 include, at a minimum:

11 1. A detailed accounting of the financial status of the
12 program, including statements regarding:

13 a. the total number and principal amount of clean energy
14 loans originated and the number and principal amount
15 of clean energy loans originated to first-tier,
16 second-tier, and third-tier qualified borrowers,

17 b. the total amount of outstanding principal and interest
18 on clean energy loans owed by qualified borrowers and
19 the amount of such principal and interest owed by
20 first-tier, second-tier, and third-tier qualified
21 borrowers,

22 c. the total number and principal and interest amounts of
23 any uncollectible clean energy loans written off by
24 participating public lenders and private lenders and

1 the number and principal amounts of such loans issued
2 to first-tier, second-tier, and third-tier qualified
3 borrowers,

4 d. the total amount of bonds or other notes in which the
5 State Treasurer has invested as authorized by law, the
6 payments made on such bonds or other notes, and the
7 payments to be made in the future on such bonds or
8 other notes, and

9 e. the amounts paid to the administrator by the state
10 pursuant to law and any contracts entered into by the
11 state and the administrator as authorized by this act;

12 2. Estimates of the total energy, emissions, and gross and net
13 cost savings resulting from clean energy improvements financed by
14 clean energy loans; and

15 3. Any recommended program improvements.

16 B. No later than each January 30, the Office shall report to
17 the relevant committee of the House of Representatives and the
18 relevant committee of the State Senate regarding the program. The
19 report shall include the information provided to the Office in the
20 program administrator's annual report and whatever additional
21 information the Office deems relevant to fully apprise the
22 committees regarding the status of the program.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Passed the House of Representatives the 13th day of March, 2012.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2012.

Presiding Officer of the Senate