

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

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

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

7 1. "Area median income" means the median income of the county
8 in which the primary residence of a qualified borrower is located in
9 relation to family size, as published annually by the United States
10 Department of Housing and Urban Development;

11 2. "Certified contractor" means a contractor, including but not
12 limited to a general, heating, air conditioning, or lighting
13 contractor, certified by the program administrator to market the
14 program to potential qualified borrowers and make clean energy
15 improvements that may be financed by clean energy loans;

16 3. "Clean energy improvement" means any repair of or addition
17 or improvement to residential real property completed by or under
18 the supervision of a certified contractor that improves the energy
19 efficiency of the property, replaces all or a portion of the energy
20 from nonrenewable sources used in connection with the property with
21 energy from renewable sources or provides for the acquisition of
22 energy-efficient products, including but not limited to Energy-Star
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1 compliant appliances or appliances that meet another qualified
2 rating system;

3 4. "Clean energy loan" means a loan in a maximum amount of
4 Twelve Thousand Five Hundred Dollars (\$12,500.00) originated by a
5 participating public lender or a participating private lender to a
6 qualified borrower for the purpose of financing one or more clean
7 energy improvements to the borrower's primary residence; except
8 that, if the qualified borrower is a nonprofit corporation or local
9 government housing authority that provides units in a multiunit
10 housing project as homes to individuals or families who meet the
11 income qualifications of first-tier or second-tier qualified
12 borrowers, the maximum amount of a loan shall be Twelve Thousand
13 Five Hundred Dollars (\$12,500.00) multiplied by the number of units
14 in the multiunit housing project provided to the individuals or
15 families;

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

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

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

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

23 a. market the program,

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- 1 b. recruit, train, and certify contractors,
- 2 c. measure and verify, in accordance with standards
- 3 established by the Office, energy, emissions, and
- 4 gross and net cost savings resulting from clean energy
- 5 improvements financed by clean energy loans originated
- 6 and serviced by participating public lenders and
- 7 private lenders,
- 8 d. encourage homeowners to participate in utility demand-
- 9 side management programs where applicable, and
- 10 e. perform such other duties as may be authorized in this
- 11 act or required by the Office;

12 9. "Program fund" means the Clean Energy Program Fund created

13 in this act;

14 10. "Public lender" means a county, municipality, district,

15 authority, or other political subdivision of the state authorized to

16 make economic development, affordable housing, or housing

17 rehabilitation loans;

18 11. "Qualified borrower" means an individual or family who owns

19 his, her, or their primary residence and satisfies lending

20 guidelines established by the program administrator or a charitable

21 nonprofit corporation exempt from taxation under Section 501(c)(3)

22 of the Internal Revenue Code of 1986, as amended, or county or

23 municipal housing authority that provides homes for ownership or

1 rental to homeowners or renters who meet the income qualifications
2 of first-tier or second-tier qualified borrowers;

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

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

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

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

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

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

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1 2. Directly market the program to the general public or
2 contract with the program administrator for the marketing of the
3 program to the general public;

4 3. Develop and operate or contract with the program
5 administrator for the development and operation of a quality
6 assurance, measurement, and verification program to:

7 a. monitor the quality of clean energy improvement
8 installations, and

9 b. measure and report on energy, emissions, and gross and
10 net cost savings resulting from clean energy
11 improvements financed by clean energy loans;

12 4. Determine, in consultation with the State Treasurer, when
13 the administrative and procedural framework for the program and the
14 available administrative and financial resources for the program are
15 sufficiently developed to allow the Office to effectively oversee
16 the program. No clean energy loan shall be marketed to a potential
17 qualified borrower, applied for by a potential qualified borrower,
18 or made to a qualified borrower until the Office has determined that
19 it is ready to effectively oversee the program and instructed
20 certified contractors to begin marketing clean energy loans; and

21 5. Exercise such other powers and perform such other duties
22 necessary or incidental to or implied from the specific powers and
23 duties specified in this act.

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

- 3 1. The loan buy-down account; and
- 4 2. The loan loss reserve account.

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

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

12 B. In accordance with requirements imposed upon the State
13 Treasurer, in making investments, to use prudence and care to
14 preserve the principal and to secure the maximum rate of interest
15 consistent with safety and liquidity, if the Legislature chooses not
16 to appropriate monies to the program fund or to the accounts of the
17 program fund nothing in this act shall be deemed to require the
18 State Treasurer to credit any monies to the program fund or the
19 accounts of the program fund.

20 C. All interest and income earned on the deposit and investment
21 of monies in the program fund and the accounts of the program fund
22 shall be used for the loan buy-down account and the loan loss
23 reserve account.

1 D. Monies in the loan buy-down account and loan loss reserve
2 account of the program fund shall remain in the accounts and shall
3 not be transferred to the general fund or any other fund at the end
4 of any fiscal year.

5 E. All monies in the program fund are continuously appropriated
6 to the Office, and the Office shall make payments from the loan buy-
7 down account of the program fund to participating public lenders and
8 private lenders to compensate the lenders for the reduction in the
9 amount of future interest payments resulting from the provision of
10 clean energy loans to first-tier and second-tier qualified borrowers
11 at the below-market interest rates specified by law.

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

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

19 A. The Office shall make payments from the loan loss reserve
20 account of the program fund to compensate participating public
21 lenders and private lenders for the uncollectible amount of clean
22 energy loans any such lenders have written off. The Office shall
23 pay the compensation for each uncollectible clean energy loan by

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 paying to the lender a lump sum equal to the present value of the
2 uncollectible portion of the loan on the date the lender wrote it
3 off.

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

14 C. The State Treasurer may invest up to a total amount of
15 _____ Dollars of state monies in bonds or notes issued by
16 participating public or private lenders for the purpose of funding
17 clean energy loans during the 2011-12 fiscal year.

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

21 In accordance with terms contractually agreed to by the program
22 administrator and the Office, acting on behalf of the state, the
23 program administrator shall implement and administer the program by:

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 1. Recruiting, selecting, screening, training, and certifying
2 contractors, including but not limited to general, heating, air
3 conditioning, and lighting contractors, to be certified contractors
4 capable of marketing the program and completing clean energy
5 improvements. The program administrator may charge contractors a
6 reasonable fee for training and certification, and the recruiting,
7 selection, screening, training, and certification process shall
8 include, at a minimum:

9 a. direct marketing of the program to contractors,

10 b. financial and business practices background checks of
11 contractors seeking to become certified contractors,
12 and

13 c. initial training that includes:

14 (1) education regarding the elements of the program,
15 the financial and environmental benefits of clean
16 energy improvements, including but not limited to
17 specific education regarding products qualified
18 to bear the federal Energy-Star label or any
19 other qualified rating system, and recommended
20 means of marketing the program to potential
21 program customers, and

22 (2) the provision of information regarding additional
23 required training and other requirements for
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1 contractors who may wish to become preferred
2 contractors under the federal home performance
3 with Energy-star program; and

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

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

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

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

3 C. The State Treasurer shall set an annual rate of interest for
4 loans to second-tier qualified borrowers by subtracting a number of
5 basis points selected by the State Treasurer from the base annual
6 rate and shall set an annual rate of interest for loans to first-
7 tier qualified borrowers by subtracting a number of basis points
8 selected by the State Treasurer from the annual rate of interest for
9 loans to second-tier qualified borrowers.

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

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

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

6 1. A detailed accounting of the financial status of the
7 program, including statements regarding:

8 a. the total number and principal amount of clean energy
9 loans originated and the number and principal amount
10 of clean energy loans originated to first-tier,
11 second-tier, and third-tier qualified borrowers,

12 b. the total amount of outstanding principal and interest
13 on clean energy loans owed by qualified borrowers and
14 the amount of such principal and interest owed by
15 first-tier, second-tier, and third-tier qualified
16 borrowers,

17 c. the total number and principal and interest amounts of
18 any uncollectible clean energy loans written off by
19 participating public lenders and private lenders and
20 the number and principal amounts of such loans issued
21 to first-tier, second-tier, and third-tier qualified
22 borrowers,

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

6 e. the amounts paid to the administrator by the state
7 pursuant to law and any contracts entered into by the
8 state and the administrator as authorized by this act;

9 2. Estimates of the total energy, emissions, and gross and net
10 cost savings resulting from clean energy improvements financed by
11 clean energy loans; and

12 3. Any recommended program improvements.

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

20 SECTION 9. This act shall become effective July 1, 2012.

21 SECTION 10. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
5 02/28/2012 - DO PASS, As Amended and Coauthored.

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