

1 **SENATE FLOOR VERSION**

2 March 7, 2011

3 As Amended

4 SENATE BILL NO. 748

By: Anderson of the Senate

and

Jackson of the House

6
7
8 **[linked deposits - Oklahoma Small Business Linked**
9 **Deposit Act - expanding definition of eligible**
10 **participant - modifying maximum loan amounts -**
11 **noncodification - effective date]**

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

13 SECTION 1. NEW LAW A new section of law not to be
14 codified in the Oklahoma Statutes reads as follows:

15 This act shall be known and may be cited as the "Military
16 Reservist Economic Injury and Veteran-Owned Small Business Act".

17 SECTION 2. AMENDATORY 62 O.S. 2001, Section 88.2, is
18 amended to read as follows:

19 Section 88.2. As used in the Oklahoma Small Business Linked
20 Deposit Act:

21 1. "Eligible participant" means:

- 22 a. any small business organized for profit, including any
23 business related to tourism, doing business in and
24 from the State of Oklahoma, which employs not more

1 than two hundred (200) employees or has gross annual
2 receipts of not more than Four Million Dollars
3 (\$4,000,000.00),

4 b. any industrial park that has been certified by the
5 Oklahoma Department of Commerce as meeting minimum
6 guidelines necessary for an industrial park, ~~and~~

7 c. any public trust authorized in accordance with Section
8 176 of Title 60 of the Oklahoma Statutes engaged in
9 industrial development as determined by the Department
10 of Commerce. Such public trusts are limited to
11 fifteen percent (15%) of the total available funds and
12 a nonrenewable term not to exceed six (6) months
13 unless their purpose is to make package passthrough
14 loans to other private nontrust recipients for
15 industrial development purposes in which case the
16 other conditions contained in this act shall apply.
17 Subsequent loans made by an eligible trust cannot
18 exceed the interest rate established by this act, ~~and~~

19 d. any small business which:

20 (1) employs fifty or fewer full-time or part-time
21 employees,

22 (2) is organized for profit, doing business in and
23 from the State of Oklahoma,

24

1 (3) is majority-owned and operated by a member of the
2 reserve component of the Armed Forces of the
3 United States on the date such military reservist
4 receives orders for one hundred eighty (180) days
5 or more of active service, and

6 (4) is likely to sustain or has sustained substantial
7 economic injury as a result of **division (3)** of
8 this **subparagraph**, and

9 e. any veteran who served in active military service any
10 time on or after September 11, 2001 who seeks to be
11 the majority owner and operator of a small business,
12 which will be organized for profit and doing business
13 in and from the State of Oklahoma, employing fifty or
14 fewer full-time or part-time employees;

15 2. "Eligible lending institution" means a financial institution

16 that:

- 17 a. is eligible to make commercial loans,
18 b. is a public depository of state funds, and
19 c. agrees to participate in the linked deposit program,
20 or
21 d. is an institution of the farm credit system organized
22 under the federal "Farm Credit Act of 1971", 12 U.S.C.
23 2001, as amended-i;

1 3. "Enterprise zone" means those areas designated as enterprise
2 zones or districts in accordance with the Oklahoma Enterprise Zone
3 Act, Sections 690.1 through 690.19 of this title-; i

4 4. "Priority Enterprise Zones" means an enterprise zone
5 selected by the Department of Commerce which has demonstrated
6 unusual commitment as provided by this act-; i

7 5. "Small business linked deposit" means a certificate of
8 deposit placed by the State Treasurer with an eligible lending
9 institution-; and

10 6. "Board" means the Oklahoma Linked Deposit Review Board.

11 SECTION 3. AMENDATORY 62 O.S. 2001, Section 88.3, is
12 amended to read as follows:

13 Section 88.3. A. There is hereby created the Oklahoma Linked
14 Deposit Review Board. The Board shall consist of seven (7) members
15 as follows:

16 1. The State Auditor and Inspector or designee;

17 2. The Lieutenant Governor or designee to represent Oklahoma
18 small business;

19 3. The State Insurance Commissioner or designee;

20 4. The State Treasurer or designee;

21 5. The Director of the Department of Commerce or designee;

22 6. A representative from an Oklahoma banking institution
23 appointed by the Bank Commissioner; and

24 7. A representative appointed by the Governor.

1 B. The purpose of the Board shall be to insure eligibility and
2 compliance with the linked deposit program by lenders and
3 applicants. The Board shall review applications and make
4 recommendations for approval or rejection of a linked deposit loan
5 package. In reviewing linked deposit loan applications the Board
6 shall take into consideration the economic needs of the area in
7 which the business is to be located and the number of jobs to be
8 created or preserved by the receipt of such loan, and if the
9 applicant qualifies under subparagraph d of paragraph 1 of Section
10 88.2 of this title, the extent to which the managerial or technical
11 expertise of a military reservist who is the majority owner or
12 operator is critical to the day-to-day operation of the business.
13 The Board shall adopt and administer a reporting plan whereby the
14 use and economic impact of jobs created and saved by linked deposit
15 loans shall be reviewed and analyzed on an annual basis. The Board
16 shall be responsible for preparing a report summarizing these
17 findings on an annual basis. The Board shall base such report upon
18 information as available from the Oklahoma Employment Security
19 Commission as to each applicant for which a linked deposit loan has
20 been approved. Such report shall list separately each loan, with
21 name, address, and type of business by Standard Industrial Code,
22 amount, estimated jobs saved or created, lending institution and
23 locations by county and/or enterprise zone, if applicable. The
24 report shall be filed with the State Treasurer, the Governor, the

1 Speaker of the House of Representatives, the President Pro Tempore
2 of the Senate and the Chairmen of the House of Representatives and
3 the Senate Economic Development Committees. The Office of the State
4 Treasurer shall provide staff assistance to the Board.

5 Notwithstanding any other provision of law, the holding of other
6 office or employment under the government of this state shall not be
7 prohibited due to service on the Oklahoma Linked Deposit Review
8 Board.

9 SECTION 4. AMENDATORY 62 O.S. 2001, Section 88.5, as
10 amended by Section 1, Chapter 270, O.S.L. 2010 (62 O.S. Supp. 2010,
11 Section 88.5), is amended to read as follows:

12 Section 88.5. A. The State Treasurer and the Department of
13 Commerce are hereby authorized to disseminate information and to
14 provide small business linked deposit loan packages to the lending
15 institutions eligible for participation under this act.

16 B. The small business linked deposit loan package shall be
17 completed by the borrower before being forwarded to the lending
18 institution for consideration. Any technical assistance in
19 completing such loan package shall be provided by the State
20 Treasurer.

21 C. An eligible lending institution that desires to receive a
22 small business linked deposit shall accept and review applications
23 for loans from eligible participants. The lending institution shall
24 apply all usual lending standards to determine the creditworthiness

1 of each eligible participant. Loans under this act shall conform to
2 the following conditions:

3 1. Maximum loan amounts under the Oklahoma Small Business
4 Linked Deposit Act shall:

5 a. not exceed One Million Two Hundred Thousand Dollars
6 (\$1,200,000.00) for an eligible small business which
7 qualifies under subparagraph a, b or c of paragraph 1
8 of Section 88.2 of this title,

9 b. not exceed Twenty Thousand Dollars (\$20,000.00) for an
10 eligible small business which qualifies under
11 subparagraph d or e of paragraph 1 of Section 88.2 of
12 this title,

13 c. not exceed Six Million Dollars (\$6,000,000.00) for an
14 eligible industrial park or any public trust
15 authorized in accordance with Section 176 of Title 60
16 of the Oklahoma Statutes engaged in industrial
17 development as determined by the Oklahoma Linked
18 Deposit Review Board. Such public trusts are limited
19 to fifteen percent (15%) of the total available funds
20 and a nonrenewable term not to exceed six (6) months
21 unless their purpose is to make package passthrough
22 loans to other private recipients for industrial
23 development purposes. Loans made by an eligible trust
24 cannot exceed the interest rate established by this

1 act. Any recipient of a loan through an eligible
2 trust must meet the criteria of this act to receive a
3 small business linked deposit loan;

4 2. An eligible participant shall certify on the loan
5 application that the reduced rate loan will be used exclusively to
6 create new jobs or preserve existing jobs and employment
7 opportunities in accordance with the purpose of this section;

8 3. Only one linked deposit loan shall be made and be
9 outstanding at any time to any eligible participant; provided that
10 the linked deposit loan may be refinanced;

11 4. No linked deposit loan shall be approved for any otherwise
12 eligible participant when fifty percent (50%) or more of the
13 interest in or control of such otherwise eligible participant is
14 owned directly or indirectly by a person who owns directly or
15 indirectly fifty percent (50%) or more of or controls another
16 participating eligible participant;

17 5. No loan shall be made to any officer or director of the
18 lending institution making the loan or to any entity in which any
19 such officer or director maintains a controlling interest;

20 6. No loan shall be made to any employee of the State
21 Treasurer's office or members of the Board or to any entity in which
22 any such officer or director maintains a controlling interest;

23 7. The criteria for the amount of loans used for refinance
24 shall be established by the Oklahoma Linked Deposit Review Board to

1 reflect legislative intent to tighten previous criteria on
2 refinancing;

3 8. The criteria for the amount of loans per job ratio shall be
4 established by the Oklahoma Linked Deposit Review Board to reflect
5 legislative intent to maximize the program in terms of the jobs
6 created or saved;

7 9. Whoever knowingly makes a false statement concerning a
8 linked deposit loan application shall be prohibited from entering
9 into the linked deposit loan program; and

10 10. Linked deposits may be made for any maturity considered
11 appropriate by the State Treasurer not to exceed two (2) years and
12 may be renewed for up to an additional three renewals not to exceed
13 two (2) years each at the discretion of the State Treasurer with the
14 approval of the lending institution. No renewals will be allowed
15 unless the amount of principal has been reduced by a minimum of five
16 percent (5%) and all interest paid to date from the time of the
17 prior loan or renewal. However, at renewal the Oklahoma Linked
18 Deposit Review Board may approve an increase in the amount of
19 principal, if the business is expanding and additional jobs will be
20 created. An approval of such an increase in principal will not
21 extend the maximum years of participation in the program. In
22 addition, loans made to eligible participants where the loan is to
23 be used within an enterprise zone may be made for the maturity date
24 of three (3) years with two additional renewals. The first renewal

1 may be for up to three (3) years and the last renewal may be for up
2 to two (2) years. Loans made to be used within Priority Enterprise
3 Zones may be made with a maturity date of five (5) years and have
4 another three (3) years of renewal. Interest shall be paid at the
5 times determined by the State Treasurer. The State Treasurer may
6 place a small business linked deposit with an eligible lending
7 institution or decline to do so based on the cash flow needs of the
8 state, the security of state funds, investment needs of the state
9 and the ratio of state funds deposited to jobs which would be
10 sustained or created.

11 D. In considering which eligible participants to include in the
12 small business linked deposit loan package for reduced rate loans,
13 the eligible lending institution shall give priority to the economic
14 needs of the area in which the business is located, the potential
15 for economic harm to an eligible business that qualifies under
16 subparagraph d of paragraph 1 of Section 88.2 of this title, the
17 potential for the creation of business opportunity for an eligible
18 business that qualifies under subparagraph e of paragraph 1 of
19 Section 88.2 of this title and other factors it considers
20 appropriate to determine the relative financial need of the business
21 including those criteria set forth in the Community Reinvestment Act
22 of the United States. Location in an enterprise zone shall be
23 evidence of the economic needs of the area.

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1 E. The eligible lending institution shall forward to the State
2 Treasurer a small business linked deposit loan package in the form
3 and manner prescribed and approved by the State Treasurer. The
4 package shall include information regarding the amount of the loan
5 requested by each eligible participant, the number of jobs to be
6 created or sustained, an estimate of the number of zone residents to
7 be employed in such jobs where the loan is to be used in an
8 enterprise zone and such other information regarding each business
9 the State Treasurer and the Board requires. The institution shall
10 certify that each applicant is an eligible participant, and shall,
11 for each business, certify the present borrowing rate applicable to
12 each specific eligible small business.

13 F. Upon receipt of a completed small business linked deposit
14 loan package, the State Treasurer shall forward the loan package to
15 the Board, Oklahoma Tax Commission and Oklahoma Employment Security
16 Commission. The Board shall review the small business linked
17 deposit loan package to determine if said package is qualified under
18 this act. Within ten (10) days of receipt of the loan package, the
19 Oklahoma Tax Commission and the Oklahoma Employment Security
20 Commission shall determine and certify with the Board whether or not
21 the applicant is in good standing. The Board shall make a
22 recommendation concerning the package at the next regularly
23 scheduled Board meeting or at a special Board meeting, after receipt
24 of the responses from the Oklahoma Tax Commission and the Oklahoma

1 Employment Security Commission. No applicant will be approved
2 without certification of good standing with the Oklahoma Tax
3 Commission and Oklahoma Employment Security Commission. The Board
4 shall return the package to the State Treasurer with a written
5 recommendation of approval or rejection. If the Board recommends
6 rejection, the written recommendation shall include reasons for said
7 rejection. The Board shall forward a copy of its rejection notice
8 to the lending institution and the borrower. The State Treasurer
9 shall keep a chronological list of applications forwarded by the
10 Board for approval or rejection.

11 SECTION 5. This act shall become effective November 1, 2011.

12 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-1-11 - DO PASS,
13 As Amended and Coauthored.

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