

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 478

6 By: Wyrick

7 COMMITTEE SUBSTITUTE

8 An Act relating to federal Superfund sites; amending
9 27A O.S. 2011, Section 2203, which relates to lead-
10 impacted communities; stating application of certain
11 laws governing disposition of certain properties;
12 authorizing transfer of properties to certain
13 entities; providing an effective date; and declaring
14 an emergency.

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

16 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2203, is
17 amended to read as follows:

18 Section 2203. A. The Department of Environmental Quality is
19 hereby authorized to make grants, from monies appropriated for that
20 purpose, to state beneficiary public trusts serving communities
21 affected by historic lead and zinc mining and located within the
22 boundaries of federal Superfund sites; provided, that any trust
23 receiving such a grant shall accept the following grant conditions:

24 1. Funds shall be used to assist individuals or married couples
living within the most affected area of the site and who are parents

1 or legal guardians of children six (6) years of age and younger.
2 For purposes of the Lead-Impacted Communities Relocation Assistance
3 Act, "most affected area" shall mean the communities in which lead
4 poses the greatest threat to children's health and shall include a
5 reasonable buffer area around such communities. To be eligible for
6 assistance under this subsection an individual or married couple
7 shall have both:

- 8 a. continually resided in the most affected area of the
9 site since December 1, 2003, and
- 10 b. on December 1, 2003, either been pregnant or had
11 residing with them a child or children six (6) years
12 of age and younger;

13 2. For those eligible for relocation assistance who have rented
14 their living quarters since December 1, 2003, and who can produce a
15 valid rental contract or other proof of rental arrangement,
16 assistance shall be in an amount equal to the average cost of twelve
17 (12) months of rent for comparable housing elsewhere in the county.
18 The trust shall provide such assistance in periodic payments and not
19 in a single lump sum. In addition, eligible individuals or married
20 couples shall receive reimbursement up to One Thousand Dollars
21 (\$1,000.00) for payment to a company in the moving business for at
22 least two (2) years or for reimbursement of actual moving expenses
23 as demonstrated by receipts. Recipients must agree, prior to
24 accepting such assistance, that they will not again reside within

1 one-half (1/2) mile of the most affected area of the site until the
2 State Commissioner of Health formally determines that the area is
3 safe for children six (6) years of age and younger;

4 3. For those individuals and married couples eligible for
5 relocation assistance who have owned their homes since December 1,
6 2003, the trust shall purchase their homes for an amount equal to
7 the average cost of comparable housing elsewhere in the county. In
8 addition, such individuals shall receive reimbursement up to One
9 Thousand Dollars (\$1,000.00) either for payment to a company in the
10 moving business for at least two (2) years or for reimbursement of
11 actual moving expenses as demonstrated by receipts. Recipients must
12 agree, prior to accepting such assistance, that they will not again
13 reside within one-half (1/2) mile of the most affected area of the
14 site until the State Commissioner of Health formally determines that
15 the area is safe for children six (6) years of age and younger;

16 4. In determining the purchase price of a recipient's home, the
17 trust shall deduct any amounts received by the recipient in
18 compensation for damage to the home caused by remedial action on the
19 property; and

20 5. Funds shall also be used to assist landlords whose tenants
21 take advantage of the relocation assistance provided in paragraph 2
22 of this subsection. Landlords shall be eligible for an amount equal
23 to twelve (12) months of rent at a monthly rate equal to the average
24 monthly rent received by the landlord for the vacated unit over the

1 previous twelve (12) months. Recipients of such assistance must
2 agree, prior to accepting such assistance, that they will not permit
3 any family with children six (6) years of age and younger to occupy
4 any vacated unit until the State Commissioner of Health formally
5 determines that the area is safe for children of such an age.

6 6. The trust shall agree to place a restriction which shall run
7 with the land on the deeds to all property obtained pursuant to
8 paragraph 3 of subsection A of this section providing that the
9 property may not be occupied by children six (6) years of age and
10 younger until the State Commissioner of Health formally determines
11 that the area is safe for children of such an age.

12 B. Beginning June 6, 2006, the Department of Environmental
13 Quality is authorized to make grants to state beneficiary public
14 trusts serving communities affected by historic lead and zinc mining
15 and located within the boundaries of federal Superfund sites;
16 provided that any trust receiving such a grant shall accept the
17 following conditions:

18 1. Funds shall be used to assist those persons owning or
19 renting property within the area of greatest subsidence risk. For
20 purposes of the Lead-Impacted Communities Relocation Assistance Act,
21 "area of greatest subsidence risk" shall mean the communities in
22 which subsurface lead and zinc mine caverns pose the greatest threat
23 to public safety and shall include a reasonable buffer area around
24 such communities;

1 2. To be eligible for residential assistance under this
2 subsection, an individual must have continually resided in the area
3 of greatest subsidence risk since January 31, 2006. For those
4 eligible for relocation assistance who have rented their living
5 quarters since January 31, 2006, and who can produce a valid rental
6 contract or other proof of rental arrangement, assistance shall be
7 in an amount equal to the average cost of twelve (12) months of rent
8 for comparable housing elsewhere in the county. The trust may, in
9 its discretion, provide such assistance in periodic payments rather
10 than in a single lump sum. In addition, eligible individuals may
11 receive up to One Thousand Dollars (\$1,000.00) for moving expenses.
12 Recipients must agree, prior to accepting such assistance, that they
13 will not again reside within the area of greatest subsidence risk
14 until the Secretary of the Environment determines that the area is
15 safe for habitation;

16 3. For those individuals eligible for relocation assistance
17 under this subsection who own their place of residence, the trust
18 shall purchase such homes for an amount equal to the value of
19 comparable housing elsewhere in the county. In addition, such
20 individuals may receive up to One Thousand Dollars (\$1,000.00) for
21 moving expenses. Recipients must agree, prior to accepting such
22 assistance, that they will not again reside within the area of
23 greatest subsidence risk until the Office of the Secretary of the
24 Environment determines that the area is safe for habitation;

1 4. To be eligible for commercial assistance under this
2 subsection, an individual or legal entity must have continually
3 operated in the area of greatest subsidence risk since January 31,
4 2006. For those eligible for relocation assistance who have rented
5 their business or nonprofit organization premises continually since
6 January 31, 2006, and who can produce a valid rental contract or
7 other proof of rental arrangement, assistance shall be in an amount
8 equal to the average cost of twelve (12) months of rent for
9 comparable premises elsewhere in the county. The trust may, in its
10 discretion, provide such assistance in periodic payments rather than
11 in a single lump sum. In addition, such businesses or organizations
12 may receive up to Two Thousand Dollars (\$2,000.00) for moving
13 expenses. Recipients must agree, prior to accepting such
14 assistance, that they will not again operate within the area of
15 greatest subsidence risk until the Office of the Secretary of the
16 Environment determines the area is safe for occupation;

17 5. For those individuals or legal entities eligible for
18 relocation assistance under this subsection that operate businesses
19 or nonprofit organizations in structures they own which are located
20 in the area of greatest subsidence risk, the trust shall purchase
21 the property for an amount equal to the value of comparable
22 commercial property elsewhere in the county. In addition, such
23 businesses or organizations may receive up to Two Thousand Dollars
24 (\$2,000.00) for moving expenses. Recipients must agree, prior to

1 accepting such assistance, that they will not again operate within
2 the area of greatest subsidence risk until the Office of the
3 Secretary of the Environment determines the area is safe for
4 occupation; and

5 6. All other owners of real property in the area of greatest
6 subsidence risk may be eligible under this subsection to sell their
7 property to the trust for an amount equal to the value of comparable
8 property elsewhere in the county.

9 C. Where application for relocation assistance is made by one
10 of multiple owners or lessees of a particular property or rental
11 unit, the sum of all payments for acquisition of such property shall
12 not exceed the amount that would have been paid had the property
13 belonged to a single owner and the sum of all rental assistance
14 shall not exceed the amount that would have been paid had the unit
15 been rented by a single lessee.

16 D. Participation in the assistance program shall be voluntary.
17 No person shall be required to relocate under the provisions of the
18 Lead-Impacted Communities Relocation Assistance Act.

19 E. In addition to the relocation assistance program described
20 in subsections A and B of this section, funds granted to the trust
21 may be used for the following purposes:

22 1. To provide grants to municipalities, public trusts, or other
23 public entities operating utility systems located within the most
24 affected area of the site in order to lessen the debt burden on such

1 entities as a result of the relocation of families pursuant to the
2 Lead-Impacted Communities Relocation Assistance Act. The amount of
3 such grants may be based on the outstanding debt of such entities
4 and the proportion that the number of persons relocated bears to the
5 total population of the community served by such entity; and

6 2. To benefit public school districts, public trusts, and other
7 public entities located within the most affected area of the site or
8 area of greatest subsidence risk;

9 F. Real property acquired by the trust pursuant to the
10 relocation assistance provisions of the Lead-Impacted Communities
11 Relocation Assistance Act may be utilized or disposed of in the
12 manner that the trust determines shall best serve the public
13 interest. Disposition of these properties shall not be subject to
14 the requirements of Section 129.4 of Title 74 of the Oklahoma
15 Statutes, but the disposition and future use of these properties
16 shall be subject to any land use restrictions recorded pursuant to
17 state and federal law in the land records of the county in which the
18 property is located. The trust may transfer real property acquired
19 under this act to any state or federal entity or other sovereign
20 entity consistent with the requirements of Section 15 of Article X
21 of the Oklahoma Constitution.

22 G. A trust receiving a grant from the Department of
23 Environmental Quality shall be authorized to establish appropriate
24 procedures for eligible residents to apply for the relocation

1 assistance described in this section; provided, however, that such a
2 trust must set a deadline requiring eligible residents to submit
3 their initial application for assistance. The trust is further
4 authorized to make reasonable use of grant funds for the
5 administration of the relocation assistance program.

6 H. In addition to the expenditure of funds according to the
7 provisions of the Lead-Impacted Communities Relocation Assistance
8 Act, a trust receiving a grant from the Department of Environmental
9 Quality, shall be authorized to seek and expend funds from any other
10 source, whether public or private, to further the purposes of the
11 trust. The funds granted to a trust by the state shall be
12 transferred in periodic payments rather than a single lump sum.

13 I. Prior to determining what constitutes the most affected area
14 or area of greatest subsidence risk, the trust shall consult with
15 the Department of Environmental Quality, which shall provide a
16 recommendation regarding what it believes the boundaries of such an
17 area should be.

18 J. Any trust receiving funds under the Lead-Impacted
19 Communities Relocation Assistance Act shall be subject to the
20 provisions of the Oklahoma Open Meeting Act and the Oklahoma Open
21 Records Act.

22 K. At no time shall a majority of the trustees of a trust
23 receiving funds under the Lead-Impacted Communities Relocation
24 Assistance Act be residents of the most affected area or area of

1 greatest subsidence risk. All trustees shall abstain from
2 participating in any decision in which they have a direct pecuniary
3 interest.

4 L. A trust receiving funds under the Lead-Impacted Communities
5 Relocation Assistance Act is authorized to purchase property
6 belonging to a trustee or a member of the trustee's immediate family
7 provided such purchase meets the requirements of the Lead-Impacted
8 Communities Relocation Assistance Act, such trustee discloses the
9 trustee's interest in the transaction, such trustee plays no role in
10 the discussions or vote approving such purchase and the value of the
11 purchase is based upon an independent appraiser's determination of
12 the value of comparable property elsewhere in the county.

13 M. Any person eligible to receive assistance under the
14 provisions of the Lead-Impacted Communities Relocation Assistance
15 Act prior to May 10, 2008, shall remain eligible to receive the same
16 amount of assistance adjusted for the amount of any private
17 insurance payments for storm related damage if applicable. Any
18 property valuation or other type of relocation assistance assessment
19 made for the purposes of the Lead-Impacted Communities Relocation
20 Assistance Act shall be based on the value of property as it existed
21 no earlier than January 31, 2006, and not later than May 10, 2008,
22 and comparable to property elsewhere in the county. The trust shall
23 be authorized to enact or amend any of its procedures or deadlines
24 as necessary to implement the provisions of this subsection.

1 N. The trust shall establish priorities among those seeking
2 assistance, making certain that those at the greatest risk for loss
3 of life and property receive the highest priority. All assistance
4 programs shall be contingent upon the availability of funds.

5 SECTION 2. This act shall become effective July 1, 2013.

6 SECTION 3. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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