

1 ENGROSSED HOUSE
2 BILL NO. 2187

By: Joyner, Shannon, Condit and
Pittman of the House

3 and

4 Schulz of the Senate
5
6

7 An Act relating to railroads; providing procedures
8 for sale of certain railroads; requiring certain
9 entity be offered opportunity to purchase railroad;
10 providing notification procedure; requiring response
11 within certain period of time; providing procedures
12 related to failed sale agreement; providing for
13 codification; and declaring an emergency.

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 304.2 of Title 66, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Before selling any railroad, right-of-way, railroad tracks
19 or any combination thereof owned by the Department of Transportation
20 that is under lease to or operated by a private entity, the
21 Department shall first offer to sell the railroad, right-of-way,
22 railroad tracks or any combination thereof at an open, competitive
23 public sale subject to the right of first refusal provided for in
24 subsection B of this section. The Department shall provide public
notice of the public sale at least ninety (90) days prior to the

1 time and date established for submission of bids. Such notice shall
2 be by posting on the Office of Management and Enterprise Services
3 website, by advertisement for at least two (2) weeks in a newspaper
4 of general circulation within the state, and by written notice by
5 certified mail to all railroads operating within the state. The
6 public notice shall include the terms of the public sale, including
7 the requirement for a bid deposit as set forth below, and the time,
8 date and place for submission of bids. To the extent that the
9 Department possesses information on the property to be sold, the
10 Department shall make such information available to all prospective
11 bidders on an equal basis. Bids shall be publicly opened and read
12 by the Department at the place specified for submission of bids
13 forthwith upon expiration of the time for the filing thereof;
14 provided, however, that the Department may reject any and all bids
15 if it is in the public interest to do so. Every bid shall be
16 accompanied by a bid deposit in the form of a bid bond, or cash, or
17 a certified check on, or a treasurer's or cashier's check issued by,
18 a responsible bank or trust company, payable to the Department. The
19 amount of such bid deposit shall be five percent (5%) of the value
20 of the bid. Any bid submitted without such bid deposit shall be
21 rejected as unresponsive.

22 B. After all bids have been secured pursuant to the public-sale
23 process listed in subsection A of this section, the Department shall
24 select the highest responsive bid. Once selected, the Department

1 shall notify by sending notice by certified mail to the entity that
2 is currently leasing or operating the railroad, right-of-way,
3 railroad tracks or any combination thereof of the terms and
4 conditions of the selected bid and its right of first refusal to
5 purchase the railroad, right-of-way, railroad tracks or any
6 combination thereof owned by the Department of Transportation that
7 is under lease to or operated by the private entity upon the same
8 terms and conditions as set forth in the selected bid. If the offer
9 to sell is not accepted by the entity that is currently leasing or
10 operating the railroad, right-of-way, railroad tracks or any
11 combination thereof within ninety (90) days from the date of its
12 receipt of the offer to sell, the property shall then be offered to
13 the party that originally submitted the selected bid to the
14 Department upon the same terms and conditions as set forth in such
15 bid.

16 C. If the selected bidder fails to execute a sale agreement in
17 accordance with the terms of its bid within sixty (60) days, its bid
18 deposit shall be forfeited to the Department and an award shall be
19 made to the next highest responsive bidder, subject to the right of
20 first refusal provided for in subsection B of this section.

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

1 Passed the House of Representatives the 11th day of March, 2013.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ___ day of _____, 2013.

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8 Presiding Officer of the Senate