An Act

ENROLLED SENATE
BILL NO. 478

By: Wyrick of the Senate

and

Glenn of the House

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

SUBJECT: Real property disposition procedures

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

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

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

1. Funds shall be used to assist individuals or married couples living within the most affected area of the site and who are parents or legal guardians of children six (6) years of age and younger. For purposes of the Lead-Impacted Communities Relocation Assistance Act, "most affected area" shall mean the communities in which lead poses the greatest threat to children's health and shall include a

reasonable buffer area around such communities. To be eligible for assistance under this subsection an individual or married couple shall have both:

a. continually resided in the most affected area of the site since December 1, 2003, and

b. on December 1, 2003, either been pregnant or had residing with them a child or children six (6) years of age and younger;

2. For those eligible for relocation assistance who have rented their living quarters since December 1, 2003, and who can produce a valid rental contract or other proof of rental arrangement, assistance shall be in an amount equal to the average cost of twelve (12) months of rent for comparable housing elsewhere in the county. The trust shall provide such assistance in periodic payments and not in a single lump sum. In addition, eligible individuals or married couples shall receive reimbursement up to One Thousand Dollars ($1,000.00) for payment to a company in the moving business for at least two (2) years or for reimbursement of actual moving expenses as demonstrated by receipts. Recipients must agree, prior to accepting such assistance, that they will not again reside within one-half (1/2) mile of the most affected area of the site until the State Commissioner of Health formally determines that the area is safe for children six (6) years of age and younger;

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

4. In determining the purchase price of a recipient's home, the trust shall deduct any amounts received by the recipient in

compensation for damage to the home caused by remedial action on the property; and

5. Funds shall also be used to assist landlords whose tenants take advantage of the relocation assistance provided in paragraph 2 of this subsection. Landlords shall be eligible for an amount equal to twelve (12) months of rent at a monthly rate equal to the average monthly rent received by the landlord for the vacated unit over the previous twelve (12) months. Recipients of such assistance must agree, prior to accepting such assistance, that they will not permit any family with children six (6) years of age and younger to occupy any vacated unit until the State Commissioner of Health formally determines that the area is safe for children of such an age.

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

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

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

2. To be eligible for residential assistance under this subsection, an individual must have continually resided in the area of greatest subsidence risk since January 31, 2006. For those eligible for relocation assistance who have rented their living quarters since January 31, 2006, and who can produce a valid rental contract or other proof of rental arrangement, assistance shall be

in an amount equal to the average cost of twelve (12) months of rent for comparable housing elsewhere in the county. The trust may, in its discretion, provide such assistance in periodic payments rather than in a single lump sum. In addition, eligible individuals may receive up to One Thousand Dollars ($1,000.00) for moving expenses. Recipients must agree, prior to accepting such assistance, that they will not again reside within the area of greatest subsidence risk until the Secretary of the Environment determines that the area is safe for habitation;

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

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

5. For those individuals or legal entities eligible for relocation assistance under this subsection that operate businesses or nonprofit organizations in structures they own which are located in the area of greatest subsidence risk, the trust shall purchase the property for an amount equal to the value of comparable

commercial property elsewhere in the county. In addition, such businesses or organizations may receive up to Two Thousand Dollars ($2,000.00) for moving expenses. Recipients must agree, prior to accepting such assistance, that they will not again operate within the area of greatest subsidence risk until the Office of the Secretary of the Environment determines the area is safe for occupation; and

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

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

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

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

1. To provide grants to municipalities, public trusts, or other public entities operating utility systems located within the most affected area of the site in order to lessen the debt burden on such entities as a result of the relocation of families pursuant to the Lead-Impacted Communities Relocation Assistance Act. The amount of such grants may be based on the outstanding debt of such entities and the proportion that the number of persons relocated bears to the total population of the community served by such entity; and

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

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

G. A trust receiving a grant from the Department of Environmental Quality shall be authorized to establish appropriate procedures for eligible residents to apply for the relocation assistance described in this section; provided, however, that such a trust must set a deadline requiring eligible residents to submit their initial application for assistance. The trust is further authorized to make reasonable use of grant funds for the administration of the relocation assistance program.

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

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

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

K. At no time shall a majority of the trustees of a trust receiving funds under the Lead-Impacted Communities Relocation Assistance Act be residents of the most affected area or area of greatest subsidence risk. All trustees shall abstain from participating in any decision in which they have a direct pecuniary interest.

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

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

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

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

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

Passed the Senate the 11th day of March, 2013.

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Presiding Officer of the Senate

Passed the House of Representatives the 10th day of April, 2013.

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Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____