

1 **SENATE FLOOR VERSION**

2 February 21, 2013

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 478

6 By: Wyrick of the Senate

7 and

8 Glenn of the House

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

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

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

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

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

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

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

1 as demonstrated by receipts. Recipients must agree, prior to
2 accepting such assistance, that they will not again reside within
3 one-half (1/2) mile of the most affected area of the site until the
4 State Commissioner of Health formally determines that the area is
5 safe for children six (6) years of age and younger;

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

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

22 5. Funds shall also be used to assist landlords whose tenants
23 take advantage of the relocation assistance provided in paragraph 2
24 of this subsection. Landlords shall be eligible for an amount equal

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

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

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

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

1 to public safety and shall include a reasonable buffer area around
2 such communities;

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

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

1 greatest subsidence risk until the Office of the Secretary of the
2 Environment determines that the area is safe for habitation;

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

19 5. For those individuals or legal entities eligible for
20 relocation assistance under this subsection that operate businesses
21 or nonprofit organizations in structures they own which are located
22 in the area of greatest subsidence risk, the trust shall purchase
23 the property for an amount equal to the value of comparable
24 commercial property elsewhere in the county. In addition, such

1 businesses or organizations may receive up to Two Thousand Dollars
2 (\$2,000.00) for moving expenses. Recipients must agree, prior to
3 accepting such assistance, that they will not again operate within
4 the area of greatest subsidence risk until the Office of the
5 Secretary of the Environment determines the area is safe for
6 occupation; and

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

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

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

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

24

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

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

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

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

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

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

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

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

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

16 M. Any person eligible to receive assistance under the
17 provisions of the Lead-Impacted Communities Relocation Assistance
18 Act prior to May 10, 2008, shall remain eligible to receive the same
19 amount of assistance adjusted for the amount of any private
20 insurance payments for storm related damage if applicable. Any
21 property valuation or other type of relocation assistance assessment
22 made for the purposes of the Lead-Impacted Communities Relocation
23 Assistance Act shall be based on the value of property as it existed
24 no earlier than January 31, 2006, and not later than May 10, 2008,

1 and comparable to property elsewhere in the county. The trust shall
2 be authorized to enact or amend any of its procedures or deadlines
3 as necessary to implement the provisions of this subsection.

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
14 February 21, 2013 - DO PASS AS AMENDED
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