

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

2ND CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2635

By: Roach and Blackburn of the  
House

and

Williams and Cain of the  
Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance; amending Section 4, Chapter 342, O.S.L. 1992, as last amended by Section 2, Chapter 412, O.S.L. 1998, Section 7, Chapter 342, O.S.L. 1992, Section 11, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 183, O.S.L. 1994, Section 12, Chapter 342, O.S.L. 1992, as amended by Section 1, Chapter 96, O.S.L. 1997, Section 14, Chapter 342, O.S.L. 1992, Section 16, Chapter 342, O.S.L. 1992 and Section 17, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Sections 853, 856, 860, 861, 863, 865 and 866), which relate to the Local Development Act; modifying definitions; stating legislative intent; authorizing repeal, modification or amendment of certain measures; providing certain abilities of political subdivisions not restricted; allowing project plan to contain provision to exempt ad valorem taxes in certain areas; providing restrictions and requirements for exemption; modifying procedures for certain apportionment; excluding certain entities from issuance of obligations; clarifying statutory citation; adding requirements for a certain written agreement under certain circumstances; creating income tax credit for qualified rehabilitation expenditures incurred in connection with certain certified historic properties; providing amount of credit; allowing carryforward of unused credit; requiring approval of rehabilitation work eligible for the credit; allowing rehabilitated properties to be used for mixed uses; allowing credit to be transferred; defining terms; amending 62 O.S. 1991, Section 373, which relates to lawsuits instituted by taxpayers; making taxpayers who signed written demand liable for fees and costs if claims are determined to be frivolous; defining term; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 342, O.S.L. 1992, as last amended by Section 2, Chapter 412, O.S.L. 1998 (62 O.S. Supp. 1999, Section 853), is amended to read as follows:

Section 853. As used in Section 850 et seq. of this title:

1. "Apportionment" means the direction by a governing body, authorized by the Legislature pursuant to Section 6C of Article X of the Oklahoma Constitution, to apply all or any portion of an increment of ad valorem taxes and all or any portion of sales taxes, other local taxes or local fees, or any combination thereof, to financing a plan and project in accordance with this act;

2. "Apportionment area" means the same as an increment district as defined under this act;

3. "Bonds" means evidences of indebtedness, tax apportionment bonds or other obligations issued by a public entity pursuant to the provisions of Section 863 of this title to finance project costs, pursuant to a project plan, which are to be repaid in whole or part with apportioned increments;

4. "District" means either an incentive district as authorized by Section 860 of this title or an increment district as authorized by Section 861 of this title. A district may consist of all or a portion of a project area;

5. "Enterprise area" means any area within a designated state or federal enterprise zone;

6. "Enterprise zone" means an enterprise zone as designated by the Department of Commerce pursuant to the provisions of Section 690.3 of this title or as designated by the federal government;

7. "Governing body" means the city council of a city, the board of trustees of a town or the board of county commissioners;

8. "Historic preservation area" means a district listed in or nominated by the State Historic Preservation Officer to the National Register of Historic Places, ~~or~~ an historic structure or structures listed individually in or nominated by the State Historic

Preservation Officer to the National Register of Historic Places, with such district or structure being subject to historic preservation zoning, or for purposes of ad valorem tax exemptions provided for in subsection D of Section 860 of this title, a structure subject to historic preservation zoning. Rehabilitation undertaken in an historic preservation area shall meet the Secretary of the Interior's Standards for Rehabilitation, latest revision, in order to be eligible for the incentives or exemptions granted pursuant to Section 860 of this title;

9. "Increment" means that portion of ad valorem taxes in excess of the amount of that portion of the taxes which are produced by the levy at the rate fixed each year by or for each such ad valorem taxing entity upon the base assessed value of the district or as to an area later added to the district, the effective date of the modification of the plan, or that portion of sales taxes, other local taxes or local fees collected each year reasonably determined by a formula approved by the governing body to be generated by the project, which may be apportioned for specific project costs or as a specific revenue source for other public entities in the area in which the project costs take place;

10. "Local taxes" means ad valorem taxes, sales taxes and other local taxes which are levied by or on the behalf of a taxing entity;

11. "Planning commission" means an organization established for local planning by local government or governments in accordance with the laws of this state;

12. "Project" means any public project in furtherance of the objectives of the project plan;

13. "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred which are listed in the project plan as costs of and incidental to public works or improvements and public buildings, including public school buildings, within a designated district.

Any income, special assessments, or other revenues received, or reasonably expected to be received, by the city, town or county in connection with the implementation of the project plan shall be used to pay project costs. Project costs include, but are not limited to:

- a. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment for public works, public improvements and public buildings and the clearing and grading of such land and environmental remediation related thereto,
- b. financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity,
- c. real property assembly costs, including clearance and preparation costs,
- d. professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services,
- e. direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,

- f. organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district,
- g. interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized,
- h. fees for bond guarantees, letters of credit and bond insurance,
- i. the amount of any contributions offset made in connection with the implementation of the plan,
- j. the costs for determining or redetermining the base assessed value of a district,
- k. costs of construction of public works or improvements, including but not limited to highways, roads, streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems,
- l. all or a portion of another taxing jurisdiction's capital costs resulting from the development or redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the plan and project, to the extent the governing body by written agreement accepts and approves such costs,
- m. relocation costs to the extent that a governing body determines that relocation costs shall be paid or are required to be paid by federal or state law, and

n. all costs incurred in the maintenance, management, marketing and other services provided through an active Main Street Program recognized as such by the Oklahoma Department of Commerce;

14. "Project plan" means the approved plans of a city, town or county which may include a designated district or districts under this act in conformance with its comprehensive plan, which is intended by the payment of costs through apportionment of the increment or by the granting of incentives or exemptions to reduce or eliminate those conditions, the existence of which qualified the district, and to thereby enhance private investment of the tax bases of the taxing entities which extend into the district. Project plans may be a part of and incorporate existing neighborhood, renewal, economic development, public school and other such plans. Each project plan shall conform to the requirements specified by this act;

15. "Public entity" means any city, town, county, board, commission, authority, district, urban renewal authority or public trust;

16. "Reinvestment area" means any area located within the limits of a city, town or county requiring public improvements, including but not limited to transportation-related projects identified by any transportation authority pursuant to Section 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic stagnation or decline, to serve as a catalyst for retaining or expanding employment, to attract major investment in the area or to preserve or enhance the tax base or in which fifty percent (50%) or more of the structures in the area have an age of thirty-five (35) years or more. Such an area is detrimental to the public health, safety, morals or welfare. Such an area may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures;

presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. Such an area includes a blighted area as defined in Section 38-101 of Title 11 of the Oklahoma Statutes at the time of approval of the project plan; and

17. "Taxing entity" means a city, town, county, school district, political subdivision or other local entity in which local taxes or fees are levied by or on its behalf.

SECTION 2. AMENDATORY Section 7, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Section 856), is amended to read as follows:

Section 856. A. The governing body shall designate and adopt the proposed boundaries of any district and the proposed boundaries of any project. Except as otherwise provided in this subsection, any districts created by a city or town shall be confined to that territory within the corporate limits of such city or town and any districts created by a county shall be confined to that territory within the unincorporated areas of the county. Any city, town or county may by agreement jointly create a contiguous district with another entity.

B. Upon the adoption and approval of the project plan, the governing body shall adopt an ordinance or resolution, whichever is applicable, which:

1. Describes the boundaries of districts and projects sufficiently definite to identify with ordinary and reasonable certainty the territory included in it;
  2. Creates the district as of a date provided in it;
  3. Assigns a name to the district for identification purposes.
- The first district created shall be known as either an Incentive

District or Increment District Number One, City, Town or County of \_\_\_\_\_, whichever is applicable. Each subsequently created district shall be appropriately named and shall be assigned the next consecutive number; and

4. Contains findings that:

- a. the project area or district meets at least one of the following criteria:
  - (1) is a reinvestment area,
  - (2) is a historic preservation area,
  - (3) is an enterprise area, or
  - (4) is a combination of the areas specified in divisions (1), (2) and (3) of this paragraph,
- b. the improvement of the area is likely to enhance the value of other real property in the area and to promote the general public interest. It shall not be necessary to identify the specific parcels meeting the criteria,
- c. the guidelines specified in paragraphs 1 and 2 of Section ~~3~~ 852 of this ~~act~~ title shall be followed,
- d. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section ~~13~~ 862 of this ~~act~~ title within the city or town shall not exceed twenty-five percent (25%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of fifty thousand (50,000) or more or shall not exceed thirty-five percent (35%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of less than fifty thousand (50,000),
- e. for projects approved by a county, the aggregate net assessed value of the taxable property in all



districts as determined pursuant to Section ~~13~~ 862 of this ~~act~~ title within the county shall not exceed fifteen percent (15%) of the total net assessed value of the taxable property within the county,

f. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section ~~13~~ 862 of this ~~act~~ title within the city, the town or the county shall not exceed twenty-five percent (25%) of the total net assessed value of any school district located within the city, town or county, and

g. the land area of this district and all other districts within the city, the town or the county shall not exceed twenty-five percent (25%) of the total land area of the city, the town or the county.

C. It is the intention of the Legislature in adopting the Local Development Act that no long-term contractual obligation be created by the mere adoption of an ordinance or resolution establishing an increment district. Notwithstanding any provision contained in an ordinance, resolution or project plan, an ordinance or resolution establishing an increment district shall constitute a legislative act and may be repealed, modified or amended at any time during the term of the increment district, by subsequent action of the governing body. However, nothing in the Local Development Act shall restrict the ability of:

1. Any city, town or county to:

- a. issue debt in accordance with the applicable provisions of Article X of the Oklahoma Constitution, and any statutes enacted in connection therewith, and
- b. use incremental revenues derived from an increment district to pay principal, interest or premium associated with such indebtedness; or

2. Any public entity, other than a city, town or county, to:

- a. issue tax apportionment bonds or notes in accordance with Section 863 of this title or to issue other types of revenue bonds or notes in accordance with other applicable provisions of Oklahoma law, and
- b. use incremental revenues derived from an increment district to pay principal, interest or premium associated with such indebtedness.

SECTION 3. AMENDATORY Section 11, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 183, O.S.L. 1994 (62 O.S. Supp. 1999, Section 860), is amended to read as follows:

Section 860. A. A project plan may contain a provision that certain local taxes may be subject to incentives or may be exempted in reinvestment areas, historic preservation areas or enterprise areas.

B. The governing body may grant incentives or exemptions from local taxation only on the new investment made. No ad valorem tax incentives or exemptions may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of the project plan. No ad valorem tax incentives or exemptions authorized in this section may be granted for retail establishments. If a retail establishment is located in property which otherwise qualifies for an incentive or exemption pursuant to this section, the incentive or exemption shall not be allowed for that portion of the property used for such retail establishment. As used in this subsection, "retail establishment" shall not include an establishment that provides lodging, including but not limited to a hotel, apartment hotel, public rooming house or motel. No ad valorem tax incentives or exemptions authorized in this section may be granted if the property is located in an increment district or if the property is subject to the ad valorem tax exemption for new or expanding manufacturing facilities as authorized by Section 6B of

Article X of the Oklahoma Constitution. In the event of disposition by lease or sublease to a lessee not entitled to an ad valorem tax exemption, the improvements placed thereon shall not be entitled to an ad valorem tax exemption provided for in Section 850 et seq. of this title. The incentives or exemptions, which may be full or partial, may be granted for a period not to exceed five (5) years; however, in enterprise zones incentives or exemptions may be granted for a period not to exceed six (6) years.

C. No incentives or exemptions may be granted to any business or firm that is relocating from within the state and is subject to or in the process of recruitment by two or more governmental entities within the state unless the governmental entity in which the business or firm does not locate adopts a resolution giving their approval to the granting of incentives or exemptions to the business or firm locating in the competing governmental entity. No incentives or exemptions may be granted to an out-of-state business or firm that is subject to or in the process of recruitment by two or more governmental entities within the state except as otherwise provided for in this subsection. The prohibition against incentives or exemptions to a business or firm relocating within the state may be waived upon application by the governing body to, and approval of, the Director of the Oklahoma Department of Commerce. In order for the Director to approve the waiver, the Director must find that the incentives or exemptions are necessary and sufficient to attract the business or firm and that the benefits generated by the business location outweigh the costs of the business location.

D. A project plan may contain a provision that ad valorem taxes may be exempted in a historic preservation area that is adjacent to and serves designated historical residential areas for neighborhood commercial preservation purposes in order for the neighborhood to retain its basic character and scale. No ad valorem tax exemption may be granted on the value of property which has been assessed or

which is subject to assessment prior to the adoption of the project plan. No ad valorem tax exemption shall be granted pursuant to the provisions of this subsection for single-family residences. The governing body may grant the exemption only on the increase in value of the property. The exemptions may be granted for a specific period of time as determined by the agreement and may be renewed. Uses of the property eligible for this exemption may include but not be limited to commercial, office or multifamily residential use.

SECTION 4. AMENDATORY Section 12, Chapter 342, O.S.L. 1992, as amended by Section 1, Chapter 96, O.S.L. 1997 (62 O.S. Supp. 1999, Section 861), is amended to read as follows:

Section 861. A. A project plan may contain a provision that the increments from certain local taxes or fees may be used to finance project costs in areas qualified under ~~this act~~ the Local Development Act. The increment from local taxes or fees levied from and after the effective date of the approval of such plan shall be apportioned in the following manner for a period not to exceed twenty-five (25) years or the period required for payment of project costs, whichever is less:

1. That portion of the ad valorem taxes which are produced by the levy at the rate fixed each year by or for each such ad valorem taxing entity upon the base assessed value of the increment district determined pursuant to Section 862 of this title and as to an area later added to the increment district, the effective date of the addition to the increment district, shall be paid to each taxing entity and all or any portion of local sales taxes, other local taxes or local fees collected each year which are not subject to apportionment shall be paid or retained as otherwise provided by law; and

2. ~~That~~ All or any portion of:

- a. ad valorem taxes, in excess of such amount specified in paragraph 1 of this subsection, ~~and all or any portion of~~
- b. the increment of local sales taxes, other local taxes or local fees, or a combination thereof, paid to or for the benefit of the city, town, or county approving the plan, and
- c. with its consent, evidenced by agreement in writing, ~~all or any portion of~~ the increment of local sales tax, other local taxes or local fees, or combination thereof, payable to any other local public taxing entity,

shall be apportioned to, and when collected, shall be paid into an apportionment fund established for the project pursuant to the project plan ~~to~~. Such revenues shall be used for the payment of the project costs and for the payment of the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred to finance project costs, whether funded, refunded, assumed, or otherwise, for financing, in whole or in part, eligible project costs. Nothing shall prohibit the increments from being used to directly pay eligible project costs. When all eligible project costs and such bonds, loans, advances of money or indebtedness, if any, including interest thereon and any premiums due in connection with them, have been paid and the governing body adopts an ordinance or resolution dissolving the tax apportionment financing, all ad valorem taxes upon the taxable property within the boundary of such district shall be paid into the funds of the respective taxing entities.

B. If a project plan contains a provision for apportionment as provided in subsection A of this section, and notwithstanding any other provision of law to the contrary, the governing body shall direct in the resolution or ordinance approving the plan which

portion of the increments, including whether any or all, to be paid into the apportionment fund shall constitute a part of the general fund to be appropriated annually by the governing body, and which portion, including whether any or all, shall constitute funds of a public entity authorized to issue tax apportionment bonds or notes or to incur project costs.

C. To the extent that collections exceed project costs and the provisions for payment of principal and interest along with sufficient reserves on any bonds issued pursuant to the provisions of Section 863 of this title, the excess shall be paid into the funds of the respective taxing entities unless the taxing entity agrees to some other use of such collections.

D. Except as provided in subsection E of this section, for any year in which taxes or fees are apportioned in the manner specified in paragraph 2 of subsection A of this section, any increase in assessed valuation of taxable real property or taxable personal property within the boundaries of such district in excess of the base assessed value shall not be considered by any taxing entity in computing any debt limitation or for any other purpose except for the levy of taxes and in determining the amount to be apportioned.

E. In the event there is a general reassessment of ad valorem tax property valuations of any property within the boundaries of an increment district, the portions of valuations for assessment pursuant to paragraphs 1 and 2 of subsection A of this section shall be proportionately adjusted in accordance with such reassessment.

F. Nothing in this section shall be construed as relieving property in such project area from being assessed as provided in the Ad Valorem Tax Code of the Oklahoma Statutes, or as relieving owners of such property from paying a uniform rate of taxes, as required by Section 5 of Article X of the Oklahoma Constitution.

G. If property in an increment district is owned by a public trust or public entity and is leased for a private use, the lease

shall require the private user to pay ad valorem taxes or an in lieu ad valorem tax payment, whichever is appropriate, on the value of the leasehold.

SECTION 5. AMENDATORY Section 14, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Section 863), is amended to read as follows:

Section 863. A. With the approval of the governing body, a public entity, other than a city, town or county, may issue tax apportionment bonds or notes, the proceeds of which may be used to pay project costs pursuant to the plan. Subject to the approval of the governing body, such public entity may issue refunding bonds or notes for the payment or retirement of bonds or notes previously issued by the public entity to pay project costs pursuant to the plan.

B. The public entity issuing tax apportionment bonds or notes may, as authorized by the governing body, irrevocably pledge all or part of the apportioned increments and other revenue for payment of the tax apportionment bonds or notes. The part of the apportioned increments pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien against the apportionment fund and the future increments for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

C. The issuing public entity may provide in the contract with the owners or holders of tax apportionment bonds that they will pay into the apportionment fund all or any part of the revenue produced or received from the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the bonds. If the public entity agrees, the owners or holders of these bonds may have a lien or

mortgage on a facility acquired, improved, or constructed with the proceeds of the bonds.

D. Tax apportionment bonds may be issued to mature in a period not to exceed twenty-five (25) years in one or more series. The trust indenture, ordinance, or resolution approved, issued in connection with such bond or note, shall provide:

1. The date that the bond or note bears;
2. That the bond or note is payable on demand or at a specified time;
3. The interest rate that the bond or note bears;
4. The denomination of the bond or note;
5. Whether the bond or note is in coupon or registered form;
6. The conversion or registration privileges of the bond or note;
7. The manner of execution of the bond or note;
8. The medium of payment in which and the place or places at which the bond or note is payable;
9. The terms of redemption, with or without premium, to which the bond or note is subject;
10. The manner in which the bond or note is secured; and
11. Any other characteristic of the bond or note.

E. A bond or note issued pursuant to the provisions of ~~this act~~ the Local Development Act is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued pursuant to the provisions of ~~this act~~ the Local Development Act or the security of a bond or note issued pursuant to the provisions of ~~this act~~ the Local Development Act, if the bond or note recites in substance that it was issued by the public entity pursuant to ~~this act~~ the Local Development Act, the bond or note is deemed to have been issued for that purpose, and the recital shall be conclusive of its validity and the regularity of its issuance.



F. A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax apportionment bonds or notes issued under ~~this act~~ the Local Development Act. This act does not relieve any person of the duty to exercise reasonable care in selecting securities or of complying with other applicable laws.

G. A tax apportionment bond or note issued pursuant to the provisions of this section is not a debt, liability, or obligation of the city, town or county creating or approving the plan, project or increment district. The bond or note does not give rise to a charge against the general credit or taxing powers of such city, town or county and is not payable except as provided by ~~this act~~ the Local Development Act. Bonds or notes issued pursuant to the provisions of this section are not general obligations of the state and have no claim on the revenues or resources of the state. A bond or note issued pursuant to the provisions of this section must state the restrictions of this subsection on its face.

H. A tax apportionment bond or note issued pursuant to the provisions of this section may not be included in any computation of the general obligation debt of the city, town or county creating or approving the plan, project or increment district.

I. A public entity may not issue bonds or notes, pursuant to the provisions of this section, in an amount that exceeds the total cost of implementing the project plan for which the bonds or notes are issued except to the extent that bond or notes issues may be sized to include costs of issuance, credit enhancement fees or premiums, and reasonably required reserves.

J. All bonds issued pursuant to the provisions of this section shall be reviewed by the Oklahoma State Bond Advisor who will give a recommendation on such bonds to the issuing entity.

SECTION 6. AMENDATORY Section 16, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Section 865), is amended to read as follows:

Section 865. A. In accordance with the requirements of Section 6C of Article X of the Oklahoma Constitution, the tax incentives or exemptions granted pursuant to the provisions of Section ~~44~~ 860 of this ~~act~~ title shall only be allowed for that portion of the tax under jurisdiction of another local taxing entity by written agreement between said other local taxing entity and the governing body of the city, town or county.

B. In order for the tax incentives or exemptions to be granted for that portion of the tax under the jurisdiction of each taxing entity within the district, the governing body of the taxing entity must adopt the agreement provided for in subsection A of this section upon a majority vote of those members eligible to vote as determined by Section ~~8~~ 857 of this ~~act~~ title. Action on the agreement by these governing bodies must occur within sixty (60) days after the governing body of the city, town or county submits the proposed agreement to the governing bodies of such taxing entities.

SECTION 7. AMENDATORY Section 17, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Section 866), is amended to read as follows:

Section 866. A. There shall be a written agreement between the governing body and the property owners who are granted tax incentives or exemptions pursuant to Section ~~44~~ 860 of this ~~act~~ title. The written agreement may include, but shall not be limited to, the following:

1. List the kind, number, and location of all proposed improvements to the property;

2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

3. Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period that the tax incentives or exemptions or the increment financing are in effect;

4. Provide for recapturing the local tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement; and

5. Include any other requirement deemed by the governing body necessary to carry out the agreement.

B. There shall be a written agreement between the governing body and the property owners in historic preservation areas who are granted ad valorem tax exemptions pursuant to subsection D of Section 860 of this title. The written agreement shall include the following:

1. List the location of the property;

2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the property is being maintained according to the specifications and conditions of the agreement;

3. Limit the uses of the property consistent with the general purpose of encouraging neighborhood commercial preservation of the area during the period that the ad valorem tax exemptions are in effect;

4. Provide for recapturing the ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to maintain the property as provided by the agreement; and

5. Include any other requirement deemed by the governing body necessary to carry out the agreement.

C. The governing body shall enter into written agreements with active project participants of increment projects. The written agreement may include, but shall not be limited to, the provisions specified in paragraphs 1 through 5 of subsection A of this section.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.34 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment district created pursuant to the Local Development Act. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code.

B. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

C. All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building. A certified historic hotel building or historic newspaper plant building may be rehabilitated for any lawful use or uses, including without limitation mixed uses

and still retain eligibility for the credit provided for in this section.

D. The amount of the credit allowed but not used shall be freely transferable to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

E. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within three (3) years of taking the credit pursuant to this section; and

2. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and

that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that related to historic preservation, safety, or accessibility. In addition qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

SECTION 9. AMENDATORY 62 O.S. 1991, Section 373, is amended to read as follows:

Section 373. Upon the refusal, failure, or neglect of the proper officers of the state or of any county, township, city, town, or school district, after written demand ~~made~~ signed, verified and served upon them by ten resident taxpayers of the state or such county, township, city, town, or school district, to institute or diligently prosecute proper proceedings at law or in equity for the recovery of any money or property belonging to the state, or such county, township, city, town, or school district, paid out or transferred by any officer thereof in pursuance of any unauthorized, unlawful, fraudulent, or void contract made, or attempted to be made, by any of its officers for the state or any such county, township, city, town, or school district, or for the penalty provided in the preceding section, any resident taxpayer of the state or such county, township, city, town, or school district affected by such payment or transfer after serving the notice aforesaid and after giving security for cost, may in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action which the proper officers of the State, county, township, city, town, or school district might institute and maintain for the recovery of such property, or for said penalty; and such municipality shall in such event be made defendant, and one-half (1/2) the amount of money and one-half (1/2) the value of the property recovered in any action maintained at the expense of a

resident taxpayer under this section, shall be paid to such resident taxpayer as a reward. If all claims stated by the resident taxpayers in the written demand are determined in a court of competent jurisdiction to be frivolous, the resident taxpayers who signed such demand shall be jointly and severally liable for all reasonable attorney fees and court costs incurred by any public officer or officers or any other person alleged in such demand to have paid out, transferred, or received any money or property belonging to the state, or such county, township, city, town or school district in pursuance of any alleged unauthorized, unlawful, fraudulent, or void claim paid or contract or conveyance made, or attempted to be made, by such officer or officers.

SECTION 10. 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.

47-2-9634            ARE            6/11/15