

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 548

By: Loveless

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5
6 AS INTRODUCED

7 An Act relating to governmental units; stating
8 purpose; stating entity status; providing structure,
9 authority and jurisdiction; stating reasons for
10 regulation of Prosperity Districts; allowing for
11 automatic repealer of regulations; providing defense
12 to exercise of eminent domain or enforcement of
13 regulation or tax; specifying when Prosperity
14 Districts are properly formed; requiring petition;
15 stating contents of petition; allowing for withdraw
16 of land from Prosperity District; stating contents of
17 withdraw petition; providing for process of binding
18 interstate compact; providing effect of accepted
19 pledge to enter compact; providing remedies to
20 members; stating status of compact upon becoming
21 interstate compact; allowing for alternative dispute
22 resolution; establishing exclusive jurisdiction;
23 providing clarification of eligible land held outside
24 boundaries; providing for certain reciprocity;
allowing Prosperity District to extend beyond state
lines under certain conditions; allowing formation of
Prosperity States Compact Commission when at least
two members; providing composition of commission;
providing powers and duties; providing terms of
commissioner members; providing for removal of
commissioners; stating meeting and voting
requirements; providing method of funding for
districts; establishing a Compact Administrator;
stating duties; requiring certain notice; requiring
mutual assistance; providing method of challenging
legality of compact; defining terms; providing for
certain construction; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3201 of Title 74, unless there is created a duplication in numbering, reads as follows:

The special purpose authority of every Prosperity District is exclusively to furnish consenting communities with a local jurisdiction that is streamlined to maximize prosperity through a stable public policy environment consisting of optimal regulatory and fiscal policy. No power or authority of any Prosperity District shall serve any other purpose.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3202 of Title 74, unless there is created a duplication in numbering, reads as follows:

A Prosperity District formed within any Member under the authority of this Compact shall be a governmental unit and political subdivision of that Member with the following structure, authority and jurisdiction:

A. Every Prosperity District is a municipal corporation in the form of a special district that can form enforceable contracts, sue, be sued and exercise exclusively the jurisdiction, power and authority specified in this act under the law of each Member in which it is formed and expanded; however, Prosperity Districts shall not possess or claim sovereign immunity.

1 B. Supervisory and operational authority over the limited
2 governing, management and administrative power of every Prosperity
3 District shall be vested upon formation in a managing board
4 consisting of seven (7) natural persons who are qualified electors
5 under the general laws of this Member, each of whom shall serve a
6 term of four (4) years with commencement and termination dates as
7 specified in the district bylaws during which each shall hold such
8 authority in trust and exercise it as a fiduciary for every law-
9 abiding landowner, resident and person rightfully within the
10 district, also known as the managing board.

11 1. The manner of appointment or election of the managing board
12 shall be consistent with the Fourteenth Amendment to the United
13 States Constitution, the guaranty of a republican form of government
14 thereunder, and this Member's Constitution; and it must be specified
15 in the formation petition required by this act.

16 2. The managing board is authorized to promulgate all necessary
17 district bylaws, ordinances, policies, procedures, parliamentary
18 rules, and directives subordinate to and in conformity with this
19 Compact for the Prosperity District's exercise of its limited
20 authorized powers and authorities under this act and, if desired,
21 establishing additional criteria for withdrawal of lands for its
22 internal management and administration, including the collection and
23 disbursement of revenues to which the district is entitled, the
24 formation of committees, subordinate departments and agencies, as

1 well as the designation and responsibilities of administrative
2 offices and retention of subordinate officials, and, if desired, for
3 further limiting the power, authority and jurisdiction of the
4 Prosperity District and its managing board, departments and
5 agencies, if any.

6 3. Official action by the managing board shall require a quorum
7 consisting of an absolute majority of the board present physically
8 or electronically and a vote in the affirmative of a majority of the
9 board members present at a public hearing.

10 4. Any member of the managing board who had participated in the
11 promulgation of a regulation shall not subsequently participate in
12 enforcing that regulation.

13 5. Subject to executive session procedures or privileges which
14 shall be specified in the district bylaws and adopted after a public
15 hearing, all governing instruments, records, proceedings, and
16 accounts of the Prosperity District shall be public and open for
17 inspection or observation by any person at all reasonable times.
18 Detailed minutes or verbatim recordings of all official actions and
19 public hearings shall be maintained by the managing board. The
20 Prosperity District shall fully comply with any written public
21 records request within the compliance deadline specified in the
22 request, or otherwise the Prosperity District shall, within the
23 deadline specified in the request, if one is specified, furnish a
24 written statement to the requestor detailing the reasons for the

1 partial compliance, noncompliance, or a requested compliance
2 deadline extension, which specifies a reasonable alternative
3 deadline, with specific reference to each records request. Further,
4 the Prosperity District's managing board directly or through a
5 designated chief executive officer shall be required to produce
6 annual performance audits for contracted goods and services, the
7 cost of which must be accounted for and considered during the
8 bidding process. In addition, the Prosperity District's managing
9 board directly or through a designated chief executive officer shall
10 seek an independent audit every two (2) years to evaluate the
11 district's operations and performance audits. All audits shall be
12 made public.

13 C. The governing authority of every Prosperity District is
14 strictly limited to the following powers, which shall be exclusive
15 of the exercise of the same or like powers by any other governmental
16 unit within the district's boundaries, as they exist from time to
17 time, and no other governmental unit shall within such boundaries
18 exercise the same or like powers as are granted to the district
19 under this subsection, except as expressly contemplated in this
20 Compact:

- 21 1. Police power consisting solely of:
 - 22 a. enforcing the Malum in Se Criminal Law, common law and
23 regulation adopted in its formation petition as
24 contemplated in this act, and

1 b. promulgating and enforcing regulations in strict
2 conformity with this act;

3 2. The power to furnish transportation, utility, and
4 transmission infrastructure, regulation enforcement services, other
5 municipal services specifically authorized by the district bylaws,
6 and internal managerial and administrative operations, including the
7 power to supervise and coordinate the orderly enforcement of any
8 revenue covenant among revenue beneficiaries thereof, as well as to
9 collect and disburse revenues from all authorized sources,
10 exclusively through independent contractors, intergovernmental
11 agreements, and public-private partnerships utilizing a process of
12 open competitive bidding specified in the district bylaws only if:

13 a. no regulation is promulgated or enforced by the
14 Prosperity District, directly or in combination with
15 other regulations, that restricts free and open
16 competition in derogation of the common law in the
17 provision of such infrastructure and services,

18 b. all costs incurred in furnishing such infrastructure
19 and services are to be reimbursed by either uniform,
20 non-discriminatory user fees paid voluntarily by all
21 users of the respective infrastructure or service, or
22 otherwise paid pursuant to a separate contract
23 voluntarily and consensually binding all landowners
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1 residing in the Prosperity District during the
2 provision of such infrastructure or service, and

3 c. a designated, commensurate revenue source exists for
4 all payment obligations incurred in connection with
5 furnishing such infrastructure and services.

6 3. The power to organize a municipal court with the concurrence
7 and under the supervision of the highest court of the judicial
8 branch of each Member in which any part of the Prosperity District
9 is located, with original jurisdiction of all civil and criminal
10 causes of action arising within that district, unless otherwise
11 agreed by all parties to the cause of action in a contract
12 furnishing an alternative venue or method of dispute resolution;

13 4. The power to borrow exclusively by issuing bonds in
14 accordance with such procedures as may be specified in its bylaws
15 for the sole purpose of financing the exercise of its authorized
16 powers provided that:

17 a. the total outstanding principal of all bonds issued
18 under the authority of this section together with the
19 sum of all other liabilities owed by the respective
20 Prosperity District shall never exceed the fair market
21 value of all assets held in the name of that district,

22 b. the obligation of such bonds shall be secured solely
23 and exclusively by the respective Prosperity
24 District's receipts from revenue covenants running

1 with the land in the district, by authorized gifts, or
2 by receipts received pursuant to contract, if any,

3 c. neither the United States Government nor any state nor
4 any other government body or agency shall pay,
5 guarantee or be liable for the obligation of any bond
6 issued under this section, except any liability that
7 may be incurred by the Member where the Prosperity
8 District is located, if it were to violate its pledge
9 herewith to all future bondholders of any Prosperity
10 District that it shall refrain from any action or
11 omission that would infringe on the district's
12 jurisdiction, power and authority under this act; and

13 d. the terms of such borrowing shall provide that any
14 holder of a bond issued by a Prosperity District who
15 induces or attempts to induce any Prosperity District
16 or any other governmental body to violate this act
17 shall thereby immediately forfeit all right of
18 repayment for any bond issued by that Prosperity
19 District;

20 5. The power to accept gifts of real or personal property
21 exclusively from landowners and qualified electors residing within a
22 Prosperity District for the sole purpose of defraying the costs of
23 exercising its authorized powers provided that the fiduciary
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1 obligations of the managing board are not breached through the
2 acceptance of the gift; and

3 6. Such incidental power as is both specified in the district
4 bylaws and also essential to carrying out the foregoing powers,
5 including the power to open and maintain bank accounts and acquire
6 or lease real or personal property, provided that a Prosperity
7 District may not and shall not under any circumstances, directly or
8 indirectly, principally or incidentally, or for any purpose, enjoy,
9 accept, claim or exercise any power:

- 10 a. to levy any tax,
- 11 b. of eminent domain,
- 12 c. of civil property forfeiture based on actions or
13 omissions that constitute a violation of criminal law
14 unless the owner of such property has been convicted
15 of violating that criminal law,
- 16 d. to furnish any subsidy to private enterprise,
- 17 e. to establish or enforce by regulation or otherwise,
18 directly or indirectly, any monopoly or cartel in the
19 provision of any good or service within its
20 jurisdiction in derogation of the common law,
- 21 f. to accept gifts, grants or conditional grants from any
22 governmental unit, including, but not limited to, any
23 state, county, municipality or the United States
24 government, which are sourced from taxes, government-

1 imposed fees or fines, or borrowing which is secured
2 or to be repaid by taxes or government-imposed fees or
3 fines,

4 g. to delegate all or any portion of its governing
5 authority to any other entity or to accept the
6 delegation of governing authority in addition to that
7 expressly delegated by this Compact from any other
8 governmental unit, or

9 h. to permit any other governmental unit to exercise
10 governing authority or jurisdiction within its
11 boundaries, except as authorized by this act or as
12 non-governmental persons may otherwise agree in
13 adopting a venue selection clause or choice of law
14 provision in a valid contract between them.

15 D. Every Prosperity District shall maintain comity with this
16 Member and the United States Government as provided in this
17 subsection.

18 1. All duly constituted law enforcement agencies of this Member
19 or the United States Government that would otherwise have had
20 concurrent jurisdiction to enforce Malum in Se Criminal Law within
21 the boundaries of a Prosperity District in the absence of the
22 formation or expansion of such district may do so within the
23 boundaries of any Prosperity District located in whole or in part
24 within this Member state in accordance with such jurisdiction. As

1 an incident of its power and authority under this act, each
2 Prosperity District may enter into intergovernmental agreements with
3 any duly constituted law enforcement agency of this Member or the
4 United States government to provide specific procedures for the
5 exercise of such concurrent jurisdiction, as well as to contract
6 with any such agency to exercise original jurisdiction over any
7 other criminal law in effect within the district's boundaries.
8 Moreover, when in hot pursuit of a suspect, arrestee or convict in
9 relation to a violation of law occurring outside of the boundaries
10 of a Prosperity District, law enforcement authorities of any Member
11 or the United States government may exercise jurisdiction within the
12 boundaries of any Prosperity District. Further, upon notice to the
13 managing board of the relevant Prosperity District furnishing
14 evidence of a valid summons, subpoena, judgment, supplementary
15 order, garnishment, warrant, extradition request or other legal
16 process by any agency, branch, department, instrumentality or
17 political subdivision of any Member or the United States government
18 having jurisdiction over the matter, which concerns any person or
19 property within the boundaries of that district and arises from a
20 cause of action that accrued outside of the boundaries of that
21 district, the Prosperity District shall either:

- 22 a. serve, execute or enforce the same to the reasonable
23 satisfaction of each such agency, branch, department,
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1 instrumentality or political subdivision in accordance
2 with this act, or

- 3 b. cooperate by refraining from objecting to,
4 challenging, disputing or impeding the exercise of
5 jurisdiction by each such agency, branch, department,
6 instrumentality or political subdivision within the
7 boundaries of the district to the extent needed to
8 serve, execute or enforce the same.

9 2. Upon notice furnishing evidence of a probable district
10 externality to the managing board of the relevant Prosperity
11 District by any agency, branch, department, instrumentality or
12 political subdivision of any Member or the United States government
13 having jurisdiction over the matter, the Prosperity District shall
14 either:

- 15 a. remedy within the limits of its power and authority
16 the district externality to the reasonable
17 satisfaction of each such agency, branch, department,
18 instrumentality or political subdivision in accordance
19 with this act, or
- 20 b. cooperate by refraining from objecting to,
21 challenging, disputing or impeding the exercise of
22 jurisdiction by each such agency, branch, department,
23 instrumentality or political subdivision within the
24 boundaries of the district to the extent needed to

1 remedy that district externality. However, each
2 Member is prohibited from discriminating against or
3 otherwise interfering with the free transmission,
4 transportation, ingress or egress of goods, persons,
5 services, activities, capital or entities to or from
6 any Prosperity District on terms not generally
7 applicable to all similar goods, persons, services,
8 activities, capital or entities; accordingly, a
9 Prosperity District's duty to remedy or cooperate as
10 aforesaid shall not apply to facilitate any such
11 prohibited discriminatory action.

12 3. Any person domiciled within any Prosperity District that
13 voluntarily uses governmental services or infrastructure furnished
14 by any branch, agency or political subdivision of any Member state,
15 other than what that Prosperity District furnishes, shall be liable
16 for the proportionate cost of such services and infrastructure usage
17 to the extent that such cost is not defrayed by funds distributed to
18 such branch, agency or political subdivision from the revenue
19 covenant running with title to the real property in the Prosperity
20 District or by any other revenues paid directly or indirectly by
21 such person to the respective branch, agency or political
22 subdivision. In order to recover such liability, all branches,
23 agencies or political subdivisions that desire reimbursement of such
24 costs shall first annually determine and publicly post a reasonable

1 fee for such services and infrastructure based on uniform criteria
2 that must be paid by persons domiciled within any such Prosperity
3 District in order to use such services and infrastructure; the
4 reasonableness of the fee in relation to the proportionate cost of
5 such services and infrastructure usage and all other revenues paid
6 directly or indirectly by such person to the respective branch,
7 agency or political subdivision shall be subject to judicial review
8 and alternative dispute resolution in accordance with this Compact.

9 4. Any person, governmental unit, Member agency or political
10 subdivision which has jurisdiction or authority under general laws
11 to exercise eminent domain in any location contiguous to the
12 boundaries of a Prosperity District may continue to exercise eminent
13 domain for transportation, utility or transmission purposes within
14 the boundaries of that Prosperity District to the same extent as
15 before its formation or expansion provided that any proposed or
16 consummated taking:

- 17 a. shall take place exclusively either with regard to
18 real property within such corridors as are designated
19 by appropriate legal description in the petition
20 required by this act, or otherwise within such scope
21 as is absolutely necessary to accomplish the asserted
22 public use of the taking,
- 23 b. the targeted property shall not be taken for private
24 use and shall be used exclusively for transportation,

1 utility or transmission purposes on equal terms by all
2 members of the public or otherwise with title held in
3 trust for the benefit of the public,

4 c. if the taking occurs within the aforesaid designated
5 corridors, generally applicable statewide laws of the
6 state in which the targeted property is located shall
7 apply to the taking,

8 d. if the taking occurs outside of the aforesaid
9 designated corridors, all persons whose vested rights
10 will be condemned, diminished or damaged by the taking
11 shall be made whole by the condemnor as just
12 compensation, which shall include, but is not limited
13 to, compensation consisting of payment of the maximum
14 fair market value of the targeted property as assessed
15 at any point in time up to the consummation of the
16 taking and after the first public statement of any
17 such intent to exercise eminent domain by any
18 political subdivision or agency of the state or any
19 public official thereof, and damages for all injuries
20 and costs incurred which were proximately caused by
21 the proposal, initiation, or consummation of the
22 taking, including but not limited to any loss of
23 prospective economic advantage, legal expenses and
24 attorney fees,

1 e any property taken must be dedicated to the public use
2 upon which the taking was premised within five (5)
3 years of the consummation of the taking or it shall
4 revert to the original owner or successor(s) in
5 interest, and

6 f if such taking proceedings are not initiated within
7 two (2) years of the public statement of any such
8 intent to exercise eminent domain by any political
9 subdivision or agency of this Member or any public
10 official thereof, timely initiated but abandoned
11 before consummation or not consummated within four (4)
12 years of initiation, then the respective political
13 subdivision or agency shall pay to all persons whose
14 vested rights have been thereby diminished or damaged
15 compensation for all injuries and costs incurred which
16 were proximately caused thereby, including, but not
17 limited to, any loss of prospective economic
18 advantage, legal expenses and attorney's fees, unless
19 otherwise agreed respectively by each such adversely
20 affected person. If any agency or political
21 subdivision of this or any Member engages in any
22 action or omission that is the functional equivalent
23 of exercising eminent domain within the boundaries of
24 any Prosperity District, any person whose vested

1 rights have been diminished or damaged thereby may
2 bring an action at law or equity to compel institution
3 of proceedings under this subsection. Costs incurred
4 by any agency or political subdivision of this or any
5 member to exercise the power of eminent domain within
6 the boundaries of a Prosperity District shall not be
7 funded by proceeds from any revenue covenant or
8 otherwise charged to any landowner or person domiciled
9 within the district. This subsection may be enforced
10 at law or equity in any venue of competent
11 jurisdiction by any person whose vested rights have
12 been or probably will be taken, diminished or damaged
13 as herein contemplated.

14 5. Subject to applicable provisions of this act, the judicial
15 branch of this Member state shall have jurisdiction over all
16 cognizable causes of action arising within any Prosperity District
17 located in this Member state, unless otherwise agreed by all parties
18 to the cause of action in a contract furnishing an alternative venue
19 or method of dispute resolution.

20 E. Subject to applicable provisions of this act, every
21 Prosperity District shall have exclusive governing jurisdiction
22 within its boundaries, as those boundaries may be established from
23 time to time, except as non-governmental persons may otherwise agree
24 in adopting a venue selection clause or choice of law provision in a

1 valid contract between them. Accordingly, to the extent of such
2 exclusive jurisdiction, every agency, department, instrumentality,
3 unit or political subdivision of this Member, including any county,
4 city, town, state agency or special district, is prohibited within
5 district boundaries, as they may exist from time to time, from:

6 1. Exercising jurisdiction or superimposing additional
7 governing jurisdictions therein;

8 2. Fining, penalizing, prosecuting, regulating, taxing or
9 otherwise addressing through government action any condition, state
10 of affairs, person, entity, service, property, action or omission
11 located, committed or occurring therein; and

12 3. Annexing lands therein.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3203 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 The only legitimate public purpose of regulation within the
17 boundaries of every Prosperity District, as those boundaries may be
18 established from time to time, is to safeguard public health and
19 safety by protecting the individual right to life, liberty and
20 property, which, as to any competent adult, shall be limited to
21 defending one's freedom to pursue a flourishing and productive
22 existence either in consensual association with others or alone,
23 which requires securing unobstructed action according to one's will,
24 provided that such action does not infringe upon another's like

1 freedom, and resolving conflicting claims to unobstructed action by
2 deferring to or enforcing any governing prior agreement of the
3 claimants or otherwise applying the principle of first in time,
4 first in right to defer to or enforce the claim of the first actor.
5 Accordingly, within six (6) months of formation, and periodically
6 thereafter as determined by official action of the managing board,
7 each Prosperity District shall hold one or more public hearings to
8 decide whether, how and when to promulgate and enforce Regulations
9 within its boundaries to safeguard public health and safety strictly
10 in accordance with the following subsections; further, a Prosperity
11 District's authorized police power shall be exercised in strict
12 conformity with the following:

13 1. As a precondition of promulgating or initially enforcing any
14 regulation within any Prosperity District, other than the exercise
15 of police power authorized by this act and adopted pursuant to this
16 act, or an exercise of concurrent jurisdiction, including, but not
17 limited to, any regulation clarifying, modifying or superseding the
18 common law in effect within district boundaries, every Prosperity
19 District shall conduct fact-finding at one or more hearings that are
20 open to the public with at least seven (7) days prior notice to
21 assess the extent to which the regulation would fulfill or, if
22 previously promulgated or enforced prior to repeal, has fulfilled
23 the criteria required for regulatory authority and tailoring under
24 this section, and shall publicly report as soon as practicable

1 exactly how such criteria have been or would be fulfilled by the
2 regulation in a regulatory impact statement that:

- 3 a. articulates the nature and magnitude of the threat to
4 the individual right to life, liberty or property
5 targeted by the regulation by, at a minimum,
6 characterizing the risk pathways, populations exposed
7 and consequences of exposure and assessing whether the
8 regulation or similar regulations have been effective
9 in reducing the targeted risks,
- 10 b. articulates a theory of cause and effect, consistent
11 with established economic and scientific theories,
12 that shows how the regulation could or did produce the
13 desired outcomes and that also explicitly assesses
14 whether the risks addressed by the regulation are
15 likely to increase, decrease or stay the same in the
16 absence of the regulation,
- 17 c. demonstrates consideration of a wide variety of
18 alternate and less restrictive or burdensome
19 regulatory approaches consistent with the hierarchy of
20 regulation contemplated by this act, including, but
21 not limited to, expressly assessing whether the
22 regulation has a negative effect on competition,
23 whether the regulation can be modified to reduce its
24 anti-competitive effects, and determining whether and

1 how private voluntary action can reduce the risks
2 addressed by the regulation,

3 d. comprehensively assesses the benefits and costs of a
4 wide variety of alternative regulatory approaches or
5 solutions to the asserted threat to individual rights
6 to life, liberty or property, including a showing of
7 how much of the problem the regulation is likely to
8 solve,

9 e. considers the foregoing criteria in light of all
10 actual evidence of the regulation's efficacy or lack
11 thereof from any previous promulgation or enforcement
12 of the same or similar regulation, and

13 f. specifies the data utilized to make the assessments
14 shown in the report.

15 2. A Prosperity District has no power to regulate or otherwise
16 to use or threaten coercion in connection with its governing
17 authority except through:

18 a. the exercise of police power authorized by this act,
19 and

20 b. promulgating and enforcing regulations that fulfill
21 each of the following criteria:

22 (1) the regulation governs or protects the individual
23 right to life, liberty or property of either
24 those who are not parties to a contract that

1 furnishes a rule of governance covering the same
2 subject matter as the regulation, or those who
3 are in breach of a contract covering the same
4 subject matter as the regulation, provided that
5 the dispute resolution procedures specified in
6 the contract, if any, are not being observed by
7 all parties to the contract, and at least one
8 party to the contract requests such regulation or
9 enforcement,

10 (2) the regulation and its enforcement accurately
11 codifies or implements the exercise of police
12 power authorized by this act, or governs an act,
13 activity, inactivity, occupation, profession, use
14 of property, person, entity, condition or state
15 of affairs that is not ordinarily peaceful, non-
16 violent and non-fraudulent,

17 (3) neither the predominant effect of the regulation
18 considered alone or in the context of the
19 Prosperity District's existing regulatory
20 framework, nor any part of its purpose is to
21 protect any individual, entity, or group from
22 otherwise rightful competition or to restrain
23 competent adults for their own good, and
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1 (4) the act, activity, inactivity, occupation,
2 profession, use of property, person, entity,
3 condition or state of affairs targeted for
4 regulation has violated, is violating or is an
5 actual threat to individual right to life,
6 liberty or property.

7 3. To the extent that a Prosperity District is authorized to
8 promulgate or enforce regulations pursuant to this act, the
9 regulation may only:

- 10 a. furnish modified, additional or augmented civil
11 remedies to render the exercise of police power
12 authorized by this act as more effective in protecting
13 the individual rights of life, liberty or property,
- 14 b. impose clear, objective legal standards only if the
15 foregoing mode of regulation will not reasonably
16 reduce the threat to the individual rights of life,
17 liberty or property,
- 18 c. enable the enforcement of clear, objective legal
19 standards by inspections and enforcement of violations
20 by civil penalty only if the foregoing modes of
21 regulation will not reasonably reduce the threat to
22 the individual rights of life, liberty or property,
- 23 d. enable the enforcement of clear, objective legal
24 standards by permitting, licensing or other regulatory

1 pre-approval processes only if the foregoing modes of
2 regulation will not reasonably reduce the threat to
3 the individual rights of life, liberty or property, or
4 e. enable the enforcement of clear, objective legal
5 standards by criminal sanctions only if the foregoing
6 modes of regulation will not reasonably reduce the
7 threat to the individual rights of life, liberty or
8 property.

9 4. Before exercising the police power authorized by this act,
10 and any other regulation, each Prosperity District must adopt
11 appropriate internal management and administrative procedures in the
12 district bylaws governing such enforcement, including but not
13 limited to ensuring that the method of enforcement makes it probable
14 that the regulation will protect the individual right to life,
15 liberty or property, the method of enforcement makes it probable
16 that the regulation will fulfill the criteria that authorized its
17 promulgation and that reasonable public notice of the regulation had
18 been furnished to any affected person before the regulation is
19 enforced.

20 5. Every regulation adopted pursuant to this act shall be
21 automatically repealed and held for naught five (5) years from their
22 effective date, if one is specified, and otherwise from their
23 adoption or enactment date, as the case may be, and may only be
24 promulgated again thereafter as provided in this act with any

1 regulation previously adopted pursuant to this act. The Prosperity
2 District may commence proceedings to consider reinstating such
3 regulation as early as two (2) years prior to their automatic repeal
4 date.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3204 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 It is a complete defense in any venue to the exercise of Eminent
9 Domain or the enforcement of any regulation or tax within the
10 boundaries of every Prosperity District, as those boundaries may be
11 established from time to time, that the exercise of Eminent Domain,
12 regulation or tax was promulgated or enforced in violation of this
13 Compact. If this defense is raised, the proponent of the taking,
14 regulatory or taxing action has the burden of proving strict
15 compliance with the provisions of this Compact with clear and
16 convincing evidence or with such quantum of proof as otherwise
17 agreed to by all disputants.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3205 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 A Prosperity District is formed or expanded when a petition that
22 is deemed compliant with this section is recorded with the county
23 recorder for each county in which the new or expanded Prosperity
24 District is located and with each such other official responsible

1 for the public recordation of interests in real property located
2 within the proposed boundaries of the new or expanded Prosperity
3 District, if any. Accordingly, to form or expand a Prosperity
4 District, a petition containing the information specified herein
5 shall be signed, served, reviewed, deemed compliant, and recorded as
6 follows:

7 1. With respect to eligible land to be included in the new or
8 expanded Prosperity District, one or more landowners representing
9 one hundred percent (100%) of the surface land ownership interests
10 in such eligible land, and the "petitioner(s)" shall sign a petition
11 requesting the formation or expansion of a Prosperity District to
12 include such eligible land under the authority of this Compact and
13 further attesting to the accuracy of the following information under
14 oath, which shall also be included in the petition:

- 15 a. a statement requesting the formation or expansion of a
16 Prosperity District and avowing that the land to be
17 encompassed by the new district or included in the
18 expanded district is eligible land,
- 19 b. the name, address, telephone number and e-mail address
20 of each such signing landowner, if any,
- 21 c. a statement that one hundred percent (100%) of the
22 qualified electors who are residing on such eligible
23 land have consented in writing to the petition or,

24

1 alternatively, a statement that no qualified electors
2 are then-residing on said eligible land,

3 d. the name, address, telephone number and e-mail address
4 of each such resident qualified elector, if any,

5 e. a legal description of the external boundaries of the
6 proposed new or expanded Prosperity District, as well
7 as of the boundaries of any corridor for the exercise
8 of eminent domain by external agencies and any
9 individual parcels that are internal to such eligible
10 land which shall continue to be recognized within the
11 Prosperity District upon formation, expansion and
12 withdrawal, and

13 f. a map and a general description of the area to be
14 included in the proposed new or expanded Prosperity
15 District that is sufficiently detailed to permit a
16 property owner to determine if a particular property
17 is located in the proposed new or expanded Prosperity
18 District.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3206 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 A petition may be brought to withdraw land from a Prosperity
23 District's jurisdiction as provided in this section. The land that
24 is the subject of the withdrawal petition must:

1 1. Be contiguous to land that is outside of the boundaries of
2 the affected district;

3 2. Be contiguous to land included in the same petition that is
4 contiguous to land that is outside of the boundaries of the affected
5 district;

6 3. Be at least one (1) square mile of contiguous land;

7 4. Be the subject of an enforceable contract governing all
8 landowners and qualified electors residing in the affected district
9 that gives consent to the withdrawal of such land from the district
10 under such terms and conditions as may be specified in that
11 contract; or

12 5. Qualify for withdrawal under criteria otherwise specified in
13 the bylaws of the affected district provided that such criteria are
14 uniform for all persons domiciled in the district and they do not
15 have the purpose or effect of rendering such withdrawal authority a
16 law, privilege or immunity for a closed class of one or more
17 identifiable persons.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3207 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 By becoming a member, each such Member hereby publicly pledges
22 and offers to perform and comply strictly in accordance with this
23 compact's terms and conditions as a binding interstate compact, and
24 has made such pledge and offer in anticipation and consideration of,

1 and in substantial reliance on, such mutual and reciprocal pledge,
2 performance and compliance by each other Member, if any. This
3 pledge and offer shall be deemed accepted and entry into this
4 Compact complete and contractually binding on a Member as an
5 interstate compact upon that Member's receipt of notice of the
6 attainment of Member status by any other Member; further privity of
7 contract with regard to such interstate compact shall extend to,
8 between and among any Member with notice of the Member status of any
9 other Member. For purposes of this section, notice shall be given
10 to each other Member's Governor, an official authorized to accept
11 service of process on the Governor, and to the Compact
12 Administrator, if any.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3208 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 On acceptance of the pledge and offer to enter into a compact,
17 this compact shall be construed and enforced as an interstate
18 compact consisting of a solemn sovereign pledge, agreement and
19 covenant contractually binding the Members in privity to maintain
20 and enforce the provisions of this Compact as they existed on the
21 date that the Compact became contractually binding and to refrain
22 from taking any future action that could in any way or to any degree
23 burden, impair or interfere with such provisions of this Compact,
24 except as otherwise expressly authorized by this compact. Further,

1 upon this compact attaining the status of a sovereign contract
2 between and among its Members, the maintenance of and strict
3 compliance with all of its terms is required of all Members in
4 privity. Any impairment of performance, burden on performance,
5 impediment to performance, nonperformance, suspension, deviation
6 from, disregard of, or violation of the terms of this compact of any
7 magnitude imposed by any Member in privity is prohibited, including,
8 but not limited to, the passage of parallel legislation that
9 directly or indirectly causes costs or imposes mandates not
10 contemplated by this Compact to be incurred by any Member or third
11 party beneficiary as a result of compliance with, performance under,
12 or the enjoyment of the terms of this Compact. Any violation of
13 this prohibition of any magnitude or duration is and shall be
14 regarded by all Members in privity as a substantial impairment of
15 the obligation of a solemn contract between sovereigns, and is and
16 shall be regarded as a material breach of a solemn sovereign
17 contract, as well as ultra vires and void under United States
18 Constitution, Article I, Section 10, Clause 1, and, with respect to
19 terms receiving the consent of Congress, under United States
20 Constitution. Every member in privity and third party beneficiary
21 has the right to the remedy of specific performance of the terms of
22 this Compact or injunctive relief to prohibit any deviation from
23 strict compliance with the terms of this compact, subject to the
24

1 alternative dispute resolution process and venue provisions of this
2 act.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3209 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 Notwithstanding any law to the contrary, under the authority of
7 United States Constitution and the Tenth Amendment, when and to the
8 extent that this Compact becomes an interstate compact, in
9 accordance with the consent of Congress furnished by 4 United States
10 Code § 112, this compact shall:

11 1. Have equivalent status to a law of the United States to the
12 extent that it enables cooperative efforts and mutual assistance
13 among the states in the prevention of crime, enforcing criminal laws
14 and policies, and establishing desirable agencies for making
15 effective such cooperative efforts and mutual assistance;

16 2. Every Prosperity District's exclusive jurisdiction shall
17 preclude every agency, branch, department, instrumentality or
18 political subdivision of every Member in privity or the United
19 States government from exercising jurisdiction or authority or
20 superimposing additional governing jurisdictions within district
21 boundaries, as those boundaries may be established from time to
22 time, for purposes of preventing crime, enforcing criminal laws and
23 policies and establishing desirable agencies for making effective
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1 such cooperative efforts and mutual assistance, except as authorized
2 by this act; and

3 3. Any dispute between any Member in privity, the United States
4 government, and third party beneficiary regarding cooperative
5 efforts and mutual assistance among the states in the prevention of
6 crime, enforcing criminal laws and policies, and establishing
7 desirable agencies for making effective such cooperative efforts and
8 mutual assistance, shall be subject to alternative dispute
9 resolution according to this act.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3210 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 Subject to any stipulation, condition or exception to such
14 additional consent of Congress, and otherwise notwithstanding any
15 law to the contrary, under the authority of United States
16 Constitution and the Tenth Amendment, when and to the extent that
17 this Compact becomes an interstate compact and has received the
18 consent of Congress in addition to that furnished by law:

19 1. This Compact shall have equivalent status to a law of the
20 United States;

21 2. Every Prosperity District's exclusive jurisdiction under
22 this act shall preclude every agency, branch, department,
23 instrumentality or political subdivision of every Member in privity
24 or the United States government from exercising jurisdiction or

1 authority or superimposing additional governing jurisdictions within
2 district boundaries or fining, penalizing, prosecuting, regulating,
3 taxing or otherwise addressing through government action any
4 condition, state of affairs, person, entity, service, property,
5 action or omission located, committed or occurring within the
6 boundaries of any Prosperity District, as those boundaries may be
7 established from time to time, except as authorized by this act and
8 as non-governmental persons may otherwise agree in adopting a venue
9 selection clause or choice of law provision in a valid contract
10 between them;

11 3. The actions or omissions of any Prosperity District or that
12 of any third party beneficiary within the boundaries of any
13 Prosperity District as they may be established from time to time
14 shall not prejudice or otherwise adversely affect compliance by any
15 Member in privity with federal mandates or conditions of maintaining
16 or securing federal primacy or federal grants;

17 4. Real property owned or held in trust by the United States
18 government, which is outside of the boundaries of National Forests
19 and National Parks existing on the effective date of such consent of
20 Congress, and outside of any Native American Reservation, shall
21 qualify and be deemed consented-to by the United States government
22 in its proprietary or trustee capacity, as applicable, as eligible
23 land under this act, and the United States government in such
24 capacity may be regarded as consenting to and joining in any

1 petition required by tis act for the formation or expansion of, or
2 withdrawal from, a Prosperity District encompassing such real
3 property provided that all other criteria unrelated to the ownership
4 or trustee interest of the United States are fulfilled; and

5 5. Any dispute between any Member in privity, the United States
6 government, and third party beneficiary regarding the foregoing
7 shall be subject to alternative dispute resolution according to this
8 act.

9 SECTION 11. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3211 of Title 74, unless there
11 is created a duplication in numbering, reads as follows:

12 Upon this Compact attaining the status of an interstate compact,
13 any activity lawfully undertaken and any service lawfully performed
14 within any Prosperity District located within this Member or any
15 other Member in privity shall be reciprocally recognized as lawful
16 within the boundaries of every other Prosperity District located
17 within this Member and any other Member in privity on the same terms
18 unless otherwise prohibited by the enforcement of constitutional
19 provisions, interstate compacts, Malum in Se Criminal Law, common
20 law, and any regulation promulgated or enforced in accordance with
21 this act. Further, every Prosperity District located within this
22 Member or any other Member in privity shall allow direct ingress and
23 egress of any person lawfully allowed ingress to and egress from any
24 other Prosperity District located within this Member or any other

1 Member in privity unless prohibited by the enforcement of existing
2 property or contractual rights. Furthermore, a Prosperity District
3 may be formed and expanded across state lines between Members in
4 privity provided that the petition required by this act:

5 1. Specifies the Malum in Se Criminal Law and common law that
6 shall be in effect within the district;

7 2. Is served on the Governor(s) of each affected Member at
8 their offices or through their authorized service of process
9 recipient(s) in addition to other petition recipients required by
10 this act; and

11 3. Compliance is made with all other terms of this act,
12 whereupon the approval process specified therein shall be construed
13 as referencing the Governor(s) of each affected Member in addition
14 to such other officials holding approval power.

15 SECTION 12. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3212 of Title 74, unless there
17 is created a duplication in numbering, reads as follows:

18 When at least two Members are contractually bound to this
19 Compact as contemplated in this act, the Prosperity States Compact
20 Commission shall be thereby established. The Commission initially
21 consists of three (3) unpaid Commissioners each serving solely a
22 single six-year term. It has the power and duty:

23
24

- 1 1. To designate a location within the jurisdictional boundaries
2 of the United States Court of Appeals for its principal place of
3 business;
- 4 2. To appoint and oversee a Compact Administrator that
5 maintains its principal place of business within the jurisdictional
6 boundaries of the United States Court of Appeals;
- 7 3. To guard against cronyism and special interest capture of
8 this Compact by encouraging new States to adopt this Compact and
9 Congress to consent to the Compact without exceptions, stipulations
10 or limitations through educational efforts;
- 11 4. To coordinate the performance of obligations under this
12 Compact, which shall include the issuance of advisory
13 interpretations of this Compact;
- 14 5. To oversee and direct the defense and enforcement of the
15 Compact in appropriate legal venues;
- 16 6. To request and accept funds from Prosperity Districts and to
17 disburse those funds to support the operations of the Commission and
18 Compact Administrator;
- 19 7. To make public and open for inspection or observation by any
20 person at all reasonable times all governing instruments, records,
21 proceedings, and accounts of the Commission and Compact
22 Administrator subject to executive session procedures or privileges
23 specified in the Commission's bylaws, the adoption of which shall be
24

1 conducted by public hearing and shall supersede any conflicting law
2 or regulation of any Member;

3 8. To cooperate with any person that shares a common interest
4 with the Commission and engages in policy research, public interest
5 litigation or lobbying in support of the purposes of the Compact;

6 9. To establish a process of transparent, open competitive
7 bidding in order to secure an annual contract with one or more
8 reputable outside alternative dispute resolution services, which
9 may, but is not required to include, adjudicative services offered
10 by a judicial branch of a state or the United States government, to
11 furnish binding arbitration of disputes;

12 10. To direct the final resolution and settlement of all
13 disputes involving, between or among any Member, Prosperity
14 District, or any agency or department of the United States
15 government to which the consent of Congress for this Compact can be
16 ascribed, if such consent has been given, with all sovereign
17 immunities, if any, deemed waived with respect to any such
18 proceeding, final resolution and settlement, through the use of the
19 Commission's contracted outside alternative dispute resolution
20 service, or such other alternative dispute resolution service which
21 all disputants agree to use, which may, but is not required to
22 include, adjudicative services offered by a judicial branch of a
23 state or the United States government;

24

1 11. To exercise only such incidental powers as are essential to
2 carrying out the foregoing express powers and duties but in no event
3 shall the Commission be construed as possessing eminent domain,
4 taxation or police powers, or any other power that is functionally
5 equivalent to the same, whether incidentally or principally; and

6 12. To adopt and publish corresponding bylaws, policies and
7 procedures.

8 SECTION 13. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3213 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 The Prosperity States Compact Commission initially consists of
12 three (3) unpaid Commissioners each serving solely a single six-year
13 term. Commissioner positions shall be assigned to appointees in the
14 order in which their respective appointing state became Members.
15 Once at least one Prosperity District has been formed and exists
16 within its boundaries, and until all Commissioner positions are
17 filled, or whenever there is a vacancy, each Member in the order in
18 which it became a Member may appoint one Commissioner through its
19 Governor by appropriate executive action as determined by the laws
20 of the respective Member, subject to disapproval by official notice
21 of any Prosperity District located within such Member that is
22 received by the Office of its Governor or such person who is
23 authorized to receive service of process on behalf of said Governor
24 within ten (10) calendar days of such appointment. Timely

1 disapproval shall have the effect of requiring a new appointment
2 until such time as a timely disapproval is not received.

3 SECTION 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3214 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A Commissioner representing a given Member may be removed from
7 his or her position at any time and for any reason by the official
8 action of at least two-thirds (2/3) of the governing boards of all
9 Prosperity Districts located within the jurisdiction of that Member.
10 Any Commissioner representing any Member shall be removed from his
11 or her position at any time by the official action of at least two-
12 thirds (2/3) of all Prosperity Districts. To be effective, notice
13 of the foregoing official action of removal must be received by the
14 Office of the Governor of the appointing Member or such person as is
15 authorized to receive service of process on behalf of said Governor.
16 Upon removal, the vacant position shall be filled as provided in
17 this act.

18 SECTION 15. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3215 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 The Prosperity States Compact Commission shall meet at least
22 once a year, and may meet more frequently. Each Commissioner is
23 entitled to one vote. The Commission shall not act unless a
24 majority of its appointed Commissioners is present, and no action

1 shall be binding unless approved by a majority of the appointed
2 Commissioners. However, two-thirds (2/3) of all Prosperity
3 Districts may override and nullify any action of the Commission,
4 including a direction to use alternative dispute resolution, by
5 official notice given to the Commission or the Compact Administrator
6 within thirty (30) calendar days after such action.

7 SECTION 16. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3216 of Title 74, unless there
9 is created a duplication in numbering, reads as follows:

10 The Prosperity States Compact Commission and the Compact
11 Administrator's activities shall be funded, if at all, exclusively
12 by Prosperity Districts, on an annual basis as follows:

13 1. The Commission shall propose an annual budget in accordance
14 with its bylaws;

15 2. Two-thirds (2/3) of all Prosperity Districts must approve
16 the Commission's annual budget by official notice given to the
17 Compact Administrator in order for the Commission's budget to become
18 authorized;

19 3. If and when the Commission's budget is authorized, the
20 Compact Administrator shall establish and/or maintain an account to
21 receive and disburse funding for the Commission and shall also
22 periodically request by notice given to all Prosperity Districts a
23 specific total amount of money needed to fund the Commission's
24 operations under the authorized budget;

1 4. Upon receipt of such notice, every Prosperity District shall
2 pay into the Commission account the lesser amount of an equal share
3 of the Compact Administrator's funding request or one percent (1%)
4 of gross revenue in the immediately preceding fiscal year; and

5 5. If there is a funding shortfall, the Compact Administrator
6 shall request further funding from every Prosperity District until
7 the shortfall is closed or the Commission shall adjust its
8 authorized budget to the level of the available funding.

9 SECTION 17. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3217 of Title 74, unless there
11 is created a duplication in numbering, reads as follows:

12 The Compact Administrator serves at the pleasure of the
13 Prosperity States Compact Commission and must keep the Commission
14 seasonably apprised of the performance or nonperformance of the
15 terms and conditions of this Compact. Any notice sent by a Member
16 to the Compact Administrator concerning this Compact shall be
17 adequate notice to each other Member provided that a copy of said
18 notice is seasonably delivered by the Compact Administrator to each
19 other Member's respective Governor or chief executive officer. The
20 Compact Administrator has the power and duty:

21 1. To organize and direct the logistical operations of the
22 Commission;

23 2. To maintain an accurate list of all Members, including
24 contact information;

1 3. To formulate, transmit and maintain all official notices,
2 records and communications relating to this Compact; and

3 4. Such incidental powers as are essential to carrying out the
4 foregoing express powers and duties but in no event shall the
5 Compact Administrator be construed as possessing eminent domain,
6 taxation or police powers, or any other power that is functionally
7 equivalent to the same, whether incidentally or principally.

8 SECTION 18. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3218 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 On the occurrence of each of the following described events, or
12 otherwise as soon as possible, the Compact Administrator shall
13 immediately send the following notices to the Governor of each
14 Member and the managing boards of each Prosperity District, if any,
15 together with certified conforming copies of this Compact as
16 maintained in the statutes of each Member:

17 1. Whenever any state becomes a Member, notice of that fact
18 shall be given;

19 2. Whenever any Prosperity District is formed or expanded,
20 notice of that fact shall be given;

21 3. Once Congress consents to this Compact as contemplated
22 herein, notice of that fact shall be given; and

23 4. Whenever any portion of this Compact is proposed to be
24 amended or is actually amended, notice of that fact shall be given.

1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3219 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 The Prosperity States Compact Commission, Members, Prosperity
5 Districts and the Compact Administrator shall cooperate with each
6 other and give each other mutual assistance in enforcing this
7 Compact.

8 SECTION 20. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3220 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 Subject to strict compliance with the alternative dispute
12 resolution process required by this act and the exercise of such
13 original or appellate jurisdiction of the United States Supreme
14 Court that is required by the United States Constitution, upon the
15 designation of the Compact Administrator, any legal action
16 concerning or implicating the legality of this Compact shall only be
17 conducted:

- 18 1. As to original proceedings either in:
- 19 a. the municipal court, if any, established pursuant this
20 act and within the jurisdiction of any Prosperity
21 District in which a substantial part of the cause of
22 action arose, or
 - 23 b. a court of competent jurisdiction located in the same
24 state in which the principal place of business of

1 either the Commission or the Compact Administrator is
2 located; or

3 2. Otherwise within the jurisdiction of the United States Court
4 of Appeals in which the principal place of business of either the
5 Commission or the Compact Administrator is located.

6 SECTION 21. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3221 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The following definitions shall govern the construction of
10 this Compact, unless the context clearly requires otherwise.

11 1. "Common Law" means a term used for convenience to reference
12 English judge-made law, including such acts of parliament as
13 overrode judge-made law, administered by the King's courts and the
14 English courts of chancery, which purports to be derived from
15 ancient custom and usage, as adopted or adapted and deemed
16 precedential by this Member and pronounced as governing law through
17 its judiciary through adjudications of specific disputes and fact
18 patterns so as to furnish rules for dispute resolution in the
19 categories of agency, business associations, conflict of laws,
20 contracts, contracts for deeds, judgments, land sales, property,
21 restitution, security, torts, trusts, equity and remedies. The term
22 also includes:

23 a. the judge-made law of other states in the foregoing
24 categories which this Member has adopted or adapted

1 and deemed precedential through pronouncements of its
2 judiciary,

3 b. statutory law as of the enactment date of this
4 Member's Compact legislation to the extent the
5 ascertainment of a rule of governance in the foregoing
6 categories is intelligible only by such reference,
7 this Member has adopted tribal law, Roman, Spanish or
8 French civil law or otherwise not adopted or adapted
9 English judge-made law in the foregoing categories or
10 this Member has codified English judge-made law in the
11 foregoing categories; and

12 c. interstitial common law arising from the adjudication
13 of Malum in Se Criminal Law or any regulation adopted
14 pursuant to this act, and effective provisions of this
15 Member's constitution and the United States
16 Constitution. However, it does not otherwise include
17 statutory law, administrative law, executive orders,
18 ecclesiastical law, nor the body of decisional law
19 developed by the federal judiciary of the United
20 States government. Where not inconsistent with the
21 precedential adjudications of this Member as of the
22 enactment date of this Member's Compact legislation,
23 the term may be construed as incorporating the
24 relevant governing rules published in the First

1 Restatement of the Law of Agency, Conflict of Laws,
2 Contracts, Judgments, Property, Restitution, Security,
3 Torts, and Trusts, as approved by the American Law
4 Institute in May 1942;

5 2. "Compact" means a term used for convenience to reference the
6 entirety of the text of the Prosperity States Compact advanced
7 hereby, including all of its sections regardless of whether they
8 initially only have the status of statute law, serve to manifest an
9 intent to enter into an interstate compact, or furnish the terms of
10 a binding interstate compact;

11 3. "Consent of Congress" means any act of the Congress of the
12 United States or any action of the United States government which
13 was authorized by Congress, including any statute, appropriation,
14 joint resolution, concurrent resolution, administrative rule, or
15 regulation, that expressly or impliedly consents to this Compact
16 before or after it becomes an interstate compact such that the
17 Compact attains equivalent status to a Law of the United States when
18 it becomes an interstate compact. An act or action giving such
19 consent to this Compact shall be regarded as the Consent of Congress
20 even if it includes stipulations, conditions and exceptions that
21 limit the extent to which ordinary federal law is repealed or held
22 for naught under the terms of this Compact; and all such
23 stipulations, conditions and exceptions, if any, shall be honored by
24

1 the Member governed thereby until and unless they are repealed or
2 amended;

3 4. "District Externality" means any condition, state of
4 affairs, action or omission occurring outside of the boundaries of a
5 Prosperity District that violates ordinary member law, ordinary
6 federal law, Malum in Se Criminal Law, or the common law in effect
7 outside of the boundaries of the district, which was proximately
8 caused by a condition, state of affairs, person, entity, service,
9 property, action or omission located, committed or occurring within
10 the boundaries of a Prosperity District.

11 5. "Eligible Land" means land that fulfills the following
12 criteria:

- 13 a. it either consists of at least one square mile of
14 contiguous land or consists of any quantity of
15 contiguous land adjacent to an existing Prosperity
16 District to expand that district, including any
17 quantity of land that is contiguous to land that is
18 adjacent to the district to be expanded and included
19 in the same expansion petition,
- 20 b. title to the land is held either free from any
21 recorded valid and enforceable security interests,
22 rights of way, easements, or restrictive covenants, or
23 subject to encumbrance interests provided that all
24 non-governmental persons holding any such encumbrance

1 interest, who are identifiable in the chain of title
2 to the land, consent in writing to the classification
3 of the land as eligible land under this Compact,

4 c. the land either is outside of the jurisdiction of an
5 existing Prosperity District or otherwise within the
6 jurisdiction of an existing Prosperity District
7 provided that the following entities consent in
8 writing to the classification of the real property as
9 eligible land under this Compact and all bondholders
10 of each such existing Prosperity District and any
11 other person or entity holding a valid and enforceable
12 security interest secured by the existing Prosperity
13 District's rights under an existing Revenue Covenant,

14 d. the land either is outside of the jurisdiction of a
15 special taxing district as of the enactment date of
16 this Member's Compact legislation, or otherwise within
17 the jurisdiction of a special taxing district provided
18 that the following entities consent in writing to the
19 classification of the real property as eligible land
20 and all bondholders of the respective special taxing
21 district and any other person or entity holding a
22 valid and enforceable security interest secured by the
23 district's taxing authority,

- 1 e. the land either is outside of the territorial and
2 extraterritorial jurisdiction, provided that such
3 extraterritorial jurisdiction does not span more than
4 six (6) miles from the boundary of the territorial
5 jurisdiction of a municipality as of the enactment
6 date of this Member's Compact legislation, or
7 otherwise within such territorial and
8 extraterritorial jurisdiction of a municipality
9 provided that the governing body of the municipality
10 consents by local law to the classification of the
11 real property as eligible land under this Compact, and
12 f. the land was not acquired by any landowner in its
13 chain of title within the five (5) years preceding the
14 inclusion of the land in any petition to form or
15 expand a Prosperity District through the exercise of
16 eminent domain or civil forfeiture for alleged
17 criminal acts and omissions that did not result in a
18 conviction;

19 6. "Landowner" means the owner of the freehold estate, also
20 known as fee simple estate, as appears by the deed record, and shall
21 not include reversioners, remaindermen, trustees, other than persons
22 owning the freehold estate as of deed record or mortgagees;

23 7. "Malum in Se Criminal Law" means those laws that prohibit
24 under penalty of imprisonment or punitive fines acts or omissions

1 that injure or threaten injury to another person or another person's
2 property by a person who possesses evil intent, such as laws against
3 assault, burglary, child abuse, fraud, kidnapping, murder, rape,
4 robbery, and theft;

5 8. "Member" means a state that has passed legislation that
6 enacts, adopts and agrees to be bound to this Compact or in which a
7 measure having the same force and effect as such legislation has
8 been passed by popular ballot initiative. For any state to be
9 regarded as a Member in privity with regard to any other state, each
10 such state must have passed substantively identical Compact
11 legislation as aforesaid and manifested mutual consent to be bound
12 by this Compact as provided by this act. Such legislation shall be
13 deemed substantively identical notwithstanding material differences
14 among such states in regard to terms or provisions set forth in this
15 act, provided that all other terms of such legislation are
16 substantively identical. Terms or provisions which are not
17 categories of authorized statewide tailoring are void ab initio,
18 shall be held for naught, and shall not obstruct the formation of an
19 interstate compact between the respectively enacting Member and any
20 other Member, provided that all other terms of the Compact
21 legislation are substantively identical;

22 9. "Municipality" means a political subdivision of a state
23 which has general local governing authority and an elected governing
24

1 body, such as a city or town; the term does not include special
2 taxing districts or Prosperity Districts;

3 10. "Ordinary Federal Law" means any treaty, statute,
4 agreement, regulation or executive order, as well as any other
5 similar act or action that has the force of law or the effect of
6 substantively changing the status of legal rights and obligations,
7 that is lawfully and constitutionally ratified, enacted, adopted,
8 consented-to or otherwise promulgated by the government of the
9 United States, or any of its agencies, instrumentalities, or
10 political subdivisions, that is under the authority of, and
11 subordinate to, the United States Constitution and that is subject
12 to amendment, repudiation or repeal by a legislative act or
13 resolution that has the same ultimate passage requirements as the
14 legislation or resolution giving consent of Congress to this
15 Compact, if any; excepting only:

- 16 a. any act or action that furnishes consent of Congress
17 for all or any portion of this Compact, and
18 b. any treaty, statute, regulation, ordinance or
19 executive order that is essential to enforcing,
20 strictly performing or complying with this Compact or
21 the consent of Congress in accordance with its terms;

22 11. "Ordinary Member Law" means any measure, statute,
23 regulation, ordinance or executive order, as well as any other
24 similar act that has the force of law, that is enacted, adopted or

1 otherwise promulgated by the government of this Member or any of its
2 agencies, instrumentalities or political subdivisions, that is under
3 the authority of, and subordinate to, the United States Constitution
4 and the constitution of this Member, and that is subject to
5 amendment or repeal by a legislative act that has the same ultimate
6 passage requirements as the respective Member's Compact legislation;
7 excepting only:

- 8 a. the Compact legislation,
- 9 b. any measure, statute, regulation, ordinance or
10 executive order that is essential to enforcing,
11 strictly performing or complying with this Compact in
12 accordance with its terms,
- 13 c. the Malum in Se Criminal Law of this Member, and
- 14 d. the common law of this Member;

15 12. "Person" means a natural person and any entity,
16 organization, or association that possesses some or all of the
17 rights and powers of a natural person;

18 13. "Prosperity District" means a governing unit and political
19 subdivision of this Member that is formed pursuant to this act and
20 strictly limited to the powers and authorities specified in this
21 Compact;

22 14. "Regulation" means a rule of governance for the general
23 public within the jurisdiction of the regulator that is compulsory
24 and enforceable through legal sanction, liability, penalty, direct

1 or indirect physical coercion or violence, or under the threat of
2 such, without the actual and concurrent express consent of the
3 person against whom the rule is applied. The term includes both
4 civil and criminal rules of governance; however, the term excludes
5 the district bylaws, directives, policies or procedures that limit
6 the power and jurisdiction of a Prosperity District's managing board
7 or otherwise that are applicable to the internal management and
8 administration of the district's authorized powers and authorities
9 by its managing board, contractors and employees, if any, in their
10 capacity as agents or servants of the Prosperity District rather
11 than as members of the general public;

12 15. "Revenue Covenant" means an agreement entered to pay
13 certain specified revenues to one or more designated recipients that
14 encumbers title to identified land as a covenant and passes with
15 title to such land from owner to owner so that the land cannot be
16 conveyed to a new owner without the covenant;

17 16. "State" means one of the several states of the United
18 States and includes all of the state's branches, departments,
19 agencies, instrumentalities, political subdivisions and officers,
20 employees and representatives acting in their official capacity;

21 17. "Subsidy to Private Enterprise" means an economic benefit,
22 direct or indirect, granted by a governmental unit or an
23 instrumentality or agency of a governmental unit with the primary
24 purpose or predominate effect of encouraging or maintaining

1 particular or specific classes of ventures, in which private persons
2 have a substantial financial or ownership interest; including, but
3 not limited to, cash, cash-equivalents, goods, property or services
4 given or contributed to or invested in such ventures for less than
5 equivalent fair market value in exchange, gratuitous bail-outs of
6 actual or anticipated economic losses sustained by such ventures,
7 gratuitous loan or liability guarantees benefitting such ventures,
8 insurance at below market rates or terms against investment losses
9 by such ventures, loans or extensions of credit given to such
10 ventures at below-market rates or terms or without recourse,
11 gratuitous forgiveness of debts or liabilities owed by such
12 ventures, compensation in excess of fair market value for goods,
13 services or property furnished by such ventures, and the
14 promulgation or enforcement of regulations or fees that restrict
15 competition directly or indirectly to the benefit of such ventures.
16 Economic benefits to private enterprise from the following shall not
17 be considered a subsidy to private enterprise:

- 18 a. the Prosperity District's performance of any
19 authorized municipal service in compliance with this
20 act,
- 21 b. the retention of private enterprise to perform any
22 authorized municipal service in compliance with this
23 act for fair market value,

- 1 c. the procurement of supplies and services from private
2 enterprise for the Prosperity District's internal
3 management and administrative operations for fair
4 market value, and
- 5 d. the relaxation or repeal of regulations;

6 18. "Tax" refers to any compulsory contribution to the revenue,
7 property, goods or services received by any governmental unit, or
8 any other recipient designated by any governmental unit, directly or
9 indirectly from any person, and any obligation to make any such
10 compulsory contribution, including, but not limited to, any excise,
11 impost, duty or tariff, directly or indirectly imposed on any
12 person, which is collected, demanded, levied or imposed by any
13 governmental unit or at the direction of any governmental unit on
14 any property or source of revenue, goods or services, and which is
15 enforceable through legal sanction, penalties, direct or indirect
16 physical coercion or violence or under the threat of such. The term
17 does not include any obligation or contribution made pursuant to an
18 agreement, enforceable contract or covenant entered into voluntarily
19 or otherwise voluntarily assumed or undertaken with the actual
20 consent of the person against whom the obligation is imposed or the
21 contribution is to be exacted, such as a revenue covenant;

22 19. "Third Party Beneficiary" means any non-governmental person
23 petitioning for the formation or expansion of a Prosperity District,
24 petitioning for withdrawal of land from a Prosperity District,

1 contributing real property to, residing or domiciled within, owning
2 real property within, or lawfully doing business within a Prosperity
3 District, either on formation of the district or after formation or
4 expansion.

5 SECTION 22. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3222 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 This Compact shall be liberally construed so as to effectuate
9 its purposes. To the extent that the effectiveness of this compact
10 or any of its provisions requires the alteration of local
11 legislative rules, legislative drafting policies or statutes, or
12 parliamentary procedure to be effective, the enactment of Compact
13 legislation shall be deemed to waive, repeal, supersede or otherwise
14 amend and conform all such rules, policies, statutes or procedures
15 to allow for the effectiveness of all provisions of this compact
16 according to their terms and conditions to the fullest extent
17 permitted by the constitution of any affected Member, consistent
18 with the prohibition on states impairing the obligation of contract
19 under United States Constitution.

20 SECTION 23. This act shall become effective November 1, 2017.

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