
SUBSTITUTE SENATE BILL 5788

State of Washington 61st Legislature 2009 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Prentice, Benton, Pflug, Hobbs, Shin, and Kline)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to state funding for low-income housing; amending
2 RCW 43.185.020, 43.185.050, 43.180.020, and 43.180.080; and adding a
3 new section to chapter 36.22 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.185.020 and 1995 c 399 s 101 are each amended to
6 read as follows:

7 (1) "Department" means the department of community, trade, and
8 economic development. "Director" means the director of the department
9 of community, trade, and economic development.

10 (2) "Life-cycle cost analysis" means an analysis of the total
11 discounted dollar cost of owning, operating, maintaining, and disposing
12 of a building or building system.

13 **Sec. 2.** RCW 43.185.050 and 2006 c 371 s 236 are each amended to
14 read as follows:

15 (1) The department shall use moneys from the housing trust fund and
16 other legislative appropriations to finance in whole or in part any
17 loans or grant projects that will provide housing for persons and
18 families with special housing needs and with incomes at or below fifty

1 percent of the median family income for the county or standard
2 metropolitan statistical area where the project is located. At least
3 thirty percent of these moneys used in any given funding cycle shall be
4 for the benefit of projects located in rural areas of the state as
5 defined by the department. If the department determines that it has
6 not received an adequate number of suitable applications for rural
7 projects during any given funding cycle, the department may allocate
8 unused moneys for projects in nonrural areas of the state.

9 (2) Activities eligible for assistance from the housing trust fund
10 and other legislative appropriations include, but are not limited to:

11 (a) New construction, rehabilitation, or acquisition of low and
12 very low-income housing units;

13 (b) Rent subsidies;

14 (c) Matching funds for social services directly related to
15 providing housing for special-need tenants in assisted projects;

16 (d) Technical assistance, design and finance services and
17 consultation, and administrative costs for eligible nonprofit community
18 or neighborhood-based organizations;

19 (e) Administrative costs for housing assistance groups or
20 organizations when such grant or loan will substantially increase the
21 recipient's access to housing funds other than those available under
22 this chapter;

23 (f) Shelters and related services for the homeless, including
24 emergency shelters and overnight youth shelters;

25 (g) Mortgage subsidies, including temporary rental and mortgage
26 payment subsidies to prevent homelessness;

27 (h) Mortgage insurance guarantee or payments for eligible projects;

28 (i) Down payment or closing cost assistance for eligible first-time
29 home buyers;

30 (j) Acquisition of housing units for the purpose of preservation as
31 low-income or very low-income housing; and

32 (k) Projects making housing more accessible to families with
33 members who have disabilities(~~(; and~~

34 ~~(l) During the 2005-2007 fiscal biennium, a manufactured/mobile~~
35 ~~home landlord-tenant ombudsman conflict resolution and park~~
36 ~~registration program)).~~

37 (3) (~~During the 2005-2007 fiscal biennium, revenues generated~~

1 ~~under RCW 36.22.178 may be used for the development of affordable~~
2 ~~housing projects and other activities funded in section 108, chapter~~
3 ~~371, Laws of 2006.~~

4 ~~(4))~~ Legislative appropriations from capital bond proceeds may be
5 used only for the costs of projects authorized under subsection (2)(a),
6 (i), and (j) of this section, and not for the administrative costs of
7 the department.

8 ~~((5))~~ (4) Moneys from repayment of loans from appropriations from
9 capital bond proceeds may be used for all activities necessary for the
10 proper functioning of the housing assistance program except for
11 activities authorized under subsection (2)(b) and (c) of this section.

12 ~~((6))~~ (5) Administrative costs of the department shall not exceed
13 five percent of the annual funds available for the housing assistance
14 program.

15 (6) The department shall include a life-cycle cost analysis in its
16 process for evaluating proposals for state funding.

17 **Sec. 3.** RCW 43.180.020 and 1990 c 167 s 1 are each amended to read
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Bonds" means the bonds, notes, or other evidences of
22 indebtedness of the commission, the interest paid on which may or may
23 not qualify for tax exemption.

24 (2) "Code" means the federal internal revenue code of 1954, as now
25 or hereafter amended, and the regulations and rulings promulgated
26 thereunder.

27 (3) "Commission" means the Washington state housing finance
28 commission or any board, body, commission, department, or officer
29 succeeding to the principal functions thereof or to whom the powers
30 conferred upon the commission shall be given by law.

31 (4) "Costs of housing" means all costs related to the development,
32 design, acquisition, construction, reconstruction, leasing,
33 rehabilitation, and other improvements of housing, as determined by the
34 commission.

35 (5) "Eligible person" means a person or family eligible in
36 accordance with standards promulgated by the commission. Such persons
37 shall include those persons whose income is insufficient to obtain at

1 a reasonable cost, without financial assistance, decent, safe, and
2 sanitary housing in the area in which the person or family resides, and
3 may include such other persons whom the commission determines to be
4 eligible.

5 (6) "Housing" means specific new, existing, or improved residential
6 dwellings within this state or dwellings to be constructed within this
7 state. The term includes land, buildings, and manufactured dwellings,
8 and improvements, furnishings, and equipment, and such other nonhousing
9 facilities, furnishings, equipment, and costs as may be incidental or
10 appurtenant thereto if in the judgment of the commission the
11 facilities, furnishings, equipment and costs are an integral part of
12 the project. Housing may consist of single-family or multifamily
13 dwellings in one or more structures located on contiguous or
14 noncontiguous parcels or any combination thereof. Improvements may
15 include such equipment and materials as are appropriate to accomplish
16 energy efficiency within a dwelling. The term also includes a dwelling
17 constructed by a person who occupies and owns the dwelling, and nursing
18 homes licensed under chapter 18.51 RCW.

19 (7) "Life-cycle cost analysis" means an analysis of the total
20 discounted dollar cost of owning, operating, maintaining, and disposing
21 of a building or building system.

22 (8) "Mortgage" means a mortgage, mortgage deed, deed of trust,
23 security agreement, or other instrument securing a mortgage loan and
24 constituting a lien on or security interest in housing. The property
25 may be held in fee simple or on a leasehold under a lease having a
26 remaining term, at the time the mortgage is acquired, of not less than
27 the term of repayment of the mortgage loan secured by the mortgage.
28 The property may also be housing which is evidenced by an interest in
29 a cooperative association or corporation if ownership of the interest
30 entitles the owner of the interest to occupancy of a dwelling owned by
31 the association or corporation.

32 ((+8)) (9) "Mortgage lender" means any of the following entities
33 which customarily provide service or otherwise aid in the financing of
34 housing and which are approved as a mortgage lender by the commission:
35 A bank, trust company, savings bank, national banking association,
36 savings and loan association, building and loan association, mortgage
37 banker, mortgage company, credit union, life insurance company, or any

1 other financial institution, governmental agency, municipal
2 corporation, or any holding company for any of the entities specified
3 in this subsection.

4 ~~((+9))~~ (10) "Mortgage loan" means an interest-bearing loan or a
5 participation therein, made to a borrower, for the purpose of financing
6 the costs of housing, evidenced by a promissory note, and which may or
7 may not be secured (a) under a mortgage agreement, (b) under any other
8 security agreement, regardless of whether the collateral is personal or
9 real property, or (c) by insurance or a loan guarantee of a third
10 party. However, an unsecured loan shall not be considered a mortgage
11 loan under this definition unless the amount of the loan is under two
12 thousand five hundred dollars.

13 **Sec. 4.** RCW 43.180.080 and 1997 c 163 s 1 are each amended to read
14 as follows:

15 In addition to other powers and duties specified in this chapter,
16 the commission may:

17 (1) Establish in resolutions relating to any issuance of bonds, or
18 in any financing documents relating to such issuance, such standards
19 and requirements applicable to the purchase of mortgages and mortgage
20 loans or the making of loans to mortgage lenders as the commission
21 deems necessary or desirable, including but not limited to: (a) The
22 time within which mortgage lenders must make commitments and
23 disbursements for mortgages or mortgage loans; (b) the location and
24 other characteristics of single-family housing or multifamily housing
25 to be financed by mortgages and mortgage loans; (c) the terms and
26 conditions of mortgages and mortgage loans to be acquired; (d) the
27 amounts and types of insurance coverage required on mortgages, mortgage
28 loans, and bonds; (e) the representations and warranties of mortgage
29 lenders confirming compliance with such standards and requirements; (f)
30 restrictions as to interest rate and other terms of mortgages or
31 mortgage loans or the return realized therefrom by mortgage lenders;
32 (g) the type and amount of collateral security to be provided to assure
33 repayment of any loans from the commission and to assure repayment of
34 bonds; and (h) any other matters related to the purchase of mortgages
35 or mortgage loans or the making of loans to lending institutions as
36 shall be deemed relevant by the commission;

37 (2) Sue and be sued in its own name;

1 (3) Make and execute contracts and all other instruments necessary
2 or convenient for the exercise of its purposes or powers, including but
3 not limited to contracts or agreements for the origination, servicing,
4 and administration of mortgages or mortgage loans, and the borrowing of
5 money;

6 (4) Procure such insurance, including but not limited to insurance:
7 (a) Against any loss in connection with its property and other assets,
8 including but not limited to mortgages or mortgage loans, in such
9 amounts and from such insurers as the commission deems desirable, and
10 (b) to indemnify members of the commission for acts done in the course
11 of their duties;

12 (5) Provide for the investment of any funds, including funds held
13 in reserve, not required for immediate disbursement, and provide for
14 the selection of investments;

15 (6) Fix, revise, and collect fees and charges in connection with
16 the investigation and financing of housing or in connection with
17 assignments, contracts, purchases of mortgages or mortgage loans, or
18 any other actions permitted under this chapter or by the commission;
19 and receive grants and contributions;

20 (7) Make such expenditures as are appropriate for paying the
21 administrative costs of the commission and for carrying out the
22 provisions of this chapter. These expenditures may be made only from
23 funds consisting of the commission's receipts from fees and charges,
24 grants and contributions, the proceeds of bonds issued by the
25 commission, and other revenues; these expenditures shall not be made
26 from funds of the state of Washington;

27 (8) Establish such special funds, and controls on deposits to and
28 disbursements from them, as it finds convenient for the implementation
29 of this chapter;

30 (9) Conduct such investigations and feasibility studies as it deems
31 appropriate;

32 (10) Proceed with foreclosure actions or accept deeds in lieu of
33 foreclosure together with the assignments of leases and rentals
34 incidental thereto. Any properties acquired by the commission through
35 such actions shall be sold as soon as practicable through persons
36 licensed under chapter 18.85 RCW or at public auction, or by transfer
37 to a public agency. In preparation for the disposition of the

1 properties, the commission may own, lease, clear, construct,
2 reconstruct, rehabilitate, repair, maintain, manage, operate, assign,
3 or encumber the properties;

4 (11) Take assignments of leases and rentals;

5 (12) Subject to any provisions of the commission's contracts with
6 the holders of obligations of the commission, consent to any
7 modification with respect to rate of interest, time, and payment of any
8 installment of principal or interest or any other term of any contract,
9 mortgage, mortgage loan, mortgage loan commitment, contract, or
10 agreement of any kind;

11 (13) Subject to provisions of the commission's contracts with the
12 holders of bonds, permit the reduction of rental or carrying charges to
13 persons unable to pay the regular rent or schedule of charges if, by
14 reason of other income of the commission or by reason of payment by any
15 department, agency, or instrumentality of the United States or of this
16 state, the reduction can be made without jeopardizing the economic
17 stability of the housing being financed;

18 (14) Sell, at public or private sale, with or without public
19 bidding, any mortgage, mortgage loan, or other instrument or asset held
20 by the commission;

21 (15) Employ, contract with, or engage engineers, architects,
22 attorneys, financial advisors, bond underwriters, mortgage lenders,
23 mortgage administrators, housing construction or financing experts,
24 other technical or professional assistants, and such other personnel as
25 are necessary. The commission may delegate to the appropriate persons
26 the power to execute legal instruments on its behalf;

27 (16) Receive contributions or grants from any source unless
28 otherwise prohibited;

29 (17) Impose covenants running with the land in order to satisfy and
30 enforce the requirements of applicable state and federal law and
31 commission policy with respect to housing or other facilities financed
32 by the commission or assisted by federal, state, or local programs
33 administered by the commission, by executing and recording regulatory
34 agreements or other covenants between the commission and the person or
35 entity to be bound. These regulatory agreements and covenants shall
36 run with the land and be enforceable by the commission or its
37 successors or assigns against the person or entity making the
38 regulatory agreement or covenants or its successors or assigns, even

1 though there may be no privity of estate or privity of contract between
2 the commission or its successors or assigns and the person or entity
3 against whom enforcement is sought. The term of any such covenant
4 shall be set forth in the recorded agreement containing the covenant.
5 This subsection shall apply to regulatory agreements and covenants
6 previously entered into by the commission as well as regulatory
7 agreements and covenants entered into by the commission on or after
8 July 27, 1997;

9 (18) Include a life-cycle cost analysis in its process for
10 evaluating proposals for competitive multifamily project funding;

11 (19) Delegate any of its powers and duties if consistent with the
12 purposes of this chapter;

13 ~~((+19))~~ (20) Exercise any other power reasonably required to
14 implement the purposes of this chapter.

15 NEW SECTION. Sec. 5. A new section is added to chapter 36.22 RCW
16 to read as follows:

17 (1) By September 30th of each year, a county receiving funding
18 authorized under RCW 36.22.178 (1) and (2), 36.22.179(1) (a) and (b),
19 and 36.22.1791(1) (a) and (b) shall submit to the department of
20 community, trade, and economic development a report describing the
21 distribution of funds for the preceding fiscal year. The report must
22 include:

23 (a) A description of the process used by the county for allocating
24 funds;

25 (b) The use of funds including, but not limited to, housing
26 vouchers, program services, and housing projects; and

27 (c) The criteria used for making funding allocation decisions.

28 (2) By December 1st of each year, the department of community,
29 trade, and economic development shall prepare a report to the
30 legislature and the office of financial management compiling the
31 reports submitted under subsection (1) of this section. For the funds
32 collected under subsection (1) of this section and allocated by the
33 department to entities other than counties, this report must also
34 include:

35 (a) A description of the process used by the department for
36 allocating funds;

- 1 (b) The use of funds including, but not limited to, housing
2 vouchers, program services, and housing projects; and
3 (c) The criteria used for making funding allocation decisions.

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