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HOUSE BILL 1430

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Pettigrew, Haler, Kenney, Chase, P. Sullivan and Linville

Read first time 01/19/2007.      Referred to Committee on Community & Economic Development & Trade.

1            AN ACT Relating to financing community and economic development;  
2 amending RCW 35.21.735; and creating new sections.

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

4            NEW SECTION.    **Sec. 1.** The purpose of this act is to assist  
5 community and economic development by clarifying how cities, towns,  
6 counties, public corporations, and port districts may fully participate  
7 in the federal new markets tax credit program.

8            **Sec. 2.** RCW 35.21.735 and 1995 c 212 s 2 are each amended to read  
9 as follows:

10            (1) The legislature hereby declares that carrying out the purposes  
11 of federal grants or programs is both a public purpose and an  
12 appropriate function for a city, town, county, or public corporation.  
13 The provisions of RCW 35.21.730 through 35.21.755 and RCW 35.21.660 and  
14 35.21.670 and the enabling authority herein conferred to implement  
15 these provisions shall be construed to accomplish the purposes of RCW  
16 35.21.730 through 35.21.755.

17            (2) All cities, towns, counties, and public corporations shall have  
18 the power and authority to enter into agreements with the United States

1 or any agency or department thereof, or any agency of the state  
2 government or its political subdivisions, and pursuant to such  
3 agreements may receive and expend, or cause to be received and expended  
4 by a custodian or trustee, federal or private funds for any lawful  
5 public purpose. Pursuant to any such agreement, a city, town, county,  
6 or public corporation may issue bonds, notes, or other evidences of  
7 indebtedness that are guaranteed or otherwise secured by funds or other  
8 instruments provided by or through the federal government or by the  
9 federal government or an agency or instrumentality thereof under  
10 section 108 of the housing and community development act of 1974 (42  
11 U.S.C. Sec. 5308), as amended, or its successor, and may agree to repay  
12 and reimburse for any liability thereon any guarantor of any such  
13 bonds, notes, or other evidences of indebtedness issued by such  
14 jurisdiction or public corporation, or issued by any other public  
15 entity. For purposes of this subsection, federal housing mortgage  
16 insurance shall not constitute a federal guarantee or security.

17 (3) A city, town, county, or public corporation may pledge, as  
18 security for any such bonds, notes, or other evidences of indebtedness  
19 or for its obligations to repay or reimburse any guarantor thereof, its  
20 right, title, and interest in and to any or all of the following: (a)  
21 Any federal grants or payments received or that may be received in the  
22 future; (b) any of the following that may be obtained directly or  
23 indirectly from the use of any federal or private funds received as  
24 authorized in this section: (i) Property and interests therein, and  
25 (ii) revenues; (c) any payments received or owing from any person  
26 resulting from the lending of any federal or private funds received as  
27 authorized in this section; (d) any proceeds under (a), (b), or (c) of  
28 this subsection and any securities or investments in which (a), (b), or  
29 (c) of this subsection or proceeds thereof may be invested; (e) any  
30 interest or other earnings on (a), (b), (c), or (d) of this subsection.

31 (4) A city, town, county, or public corporation may establish one  
32 or more special funds relating to any or all of the sources listed in  
33 subsection (3)(a) through (e) of this section and pay or cause to be  
34 paid from such fund the principal, interest, premium if any, and other  
35 amounts payable on any bonds, notes, or other evidences of indebtedness  
36 authorized under this section, and pay or cause to be paid any amounts  
37 owing on any obligations for repayment or reimbursement of guarantors  
38 of any such bonds, notes, or other evidences of indebtedness. A city,

1 town, county, or public corporation may contract with a financial  
2 institution either to act as trustee or custodian to receive,  
3 administer, and expend any federal or private funds, or to collect,  
4 administer, and make payments from any special fund as authorized under  
5 this section, or both, and to perform other duties and functions in  
6 connection with the transactions authorized under this section. If the  
7 bonds, notes, or other evidences of indebtedness and related agreements  
8 comply with subsection (6) of this section, then any such funds held by  
9 any such trustee or custodian, or by a public corporation, shall not  
10 constitute public moneys or funds of any city, town, or county and at  
11 all times shall be kept segregated and set apart from other funds.

12 (5) For purposes of this section, "lawful public purpose" includes,  
13 without limitation, any use of funds, including loans thereof to public  
14 or private parties, authorized by the agreements with the United States  
15 or any department or agency thereof under which federal or private  
16 funds are obtained, or authorized under the federal laws and  
17 regulations pertinent to such agreements.

18 (6) If any such federal or private funds are loaned or granted to  
19 any private party or used to guarantee any obligations of any private  
20 party, then any bonds, notes, other evidences of indebtedness issued or  
21 entered into for the purpose of receiving or causing the receipt of  
22 such federal or private funds, and any agreements to repay or reimburse  
23 guarantors, shall not be obligations of any city, town, or county and  
24 shall be payable only from a special fund as authorized in this section  
25 or from any of the security pledged pursuant to the authority of this  
26 section, or both. Any bonds, notes, or other evidences of indebtedness  
27 to which this subsection applies shall contain a recital to the effect  
28 that they are not obligations of the city, town, or county or the state  
29 of Washington and that neither the faith and credit nor the taxing  
30 power of the state or any municipal corporation or subdivision of the  
31 state or any agency of any of the foregoing, is pledged to the payment  
32 of principal, interest, or premium, if any, thereon. Any bonds, notes,  
33 other evidences of indebtedness, or other obligations to which this  
34 subsection applies shall not be included in any computation for  
35 purposes of limitations on indebtedness. To the extent expressly  
36 agreed in writing by a city, town, county, or public corporation, this  
37 subsection shall not apply to bonds, notes, or other evidences of

1 indebtedness issued for, or obligations incurred for, the necessary  
2 support of the poor and infirm by that city, town, county, or public  
3 corporation.

4 (7) Any bonds, notes, or other evidences of indebtedness issued by,  
5 or reimbursement obligations incurred by, a city, town, county, or  
6 public corporation consistent with the provisions of this section but  
7 prior to May 3, 1995, and any loans or pledges made by a city, town, or  
8 county in connection therewith substantially consistent with the  
9 provisions of this section but prior to May 3, 1995, are deemed  
10 authorized and shall not be held void, voidable, or invalid due to any  
11 lack of authority under the laws of this state.

12 (8) All cities, towns, counties, public corporations, and port  
13 districts may create partnerships and limited liability companies and  
14 enter into agreements with public or private entities, including  
15 partnership agreements and limited liability company agreements, to  
16 implement within their boundaries the federal new markets tax credit  
17 program established by the community renewal tax relief act of 2000 (26  
18 U.S.C. Sec. 45D) or its successor statute.

19 NEW SECTION. Sec. 3. The authority granted by this act is  
20 additional and supplemental to any other authority of any city, town,  
21 county, public corporation, or port district. This act may not be  
22 construed to imply that any of the power or authority granted in this  
23 act was not available to any city, town, county, public corporation, or  
24 port district under prior law. Any previous actions consistent with  
25 this act are ratified and confirmed.

26 NEW SECTION. Sec. 4. If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

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